



REPORT
OF THE
WEIGHTS AND MEASURES (LAW REVISION)
COMMITTEE
(MAITRA COMMITTEE)



SUBMITTED
TO
GOVERNMENT OF INDIA
ON
MAY 15, 1972

MINISTRY OF COMMERCE
(DIRECTORATE OF WEIGHTS AND MEASURES)

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PREFACE

The Standards of Weights and Measures Act was passed by Parliament in 1956. In 1960, the General Conference of Weights and Measures. (CGPM), set up under the Metre Convention (to which India acceded in 1957), established a system of units of weights and measures, called the International System of Units, with the international abbreviation "SI", and developed it further in subsequent years.

The International Organisation of Legal Metrology, (OIML), which is concerned with the various aspects of the law relating to weights and measures, was established under another Convention in October, 1955, and India acceded to the said Convention in October, 1956. The OIML has prepared a draft law which is intended to be adopted by its members.

As a member of the said two Conventions, India is expected to implement the recommendations of the CGPM and the OIML. The recommendations made by the CGPM and the OIML, after the enactment of the 1956-Act, are of such a fundamental nature that they cannot be incorporated in that Act by bringing an amending legislation.

The implementation of the 1956-Act also revealed that the important field of inter-State trade and commerce in weights and measures, weighing and measuring instruments and the commodities sold by weight, measure or number was not covered by the 1956-Act. No provision was also made in that Act for the approval of models of weighing and measuring instruments prior to their production.

Many other points, like the setting up of facilities for training in legal metrology, regulating export and import of weights and measures and weighing and measuring instruments, survey with regard to the implementation of the standards established by that Act and collection of statistics relating thereto, penalties for offences committed against that Act, etc., were not included in that Act. The revision of the 1956-Act has, therefore, become an urgent necessity. The revision of that Act would, in its turn, necessitate the revision of the enactments made by the different States for the implementation of the provisions of the 1956-Act.

Taking into consideration the international developments in the field of legal metrology and the need to extend the 1956-Act to other fields to which the Act did not extend, the Government of India set up, in 1966, a Committee to revise the Central law relating to weights and measures. With a view to ensuring uniformity in the law relating to the implementation of the provisions of the Central Act, the Committee was also required to prepare the model of a Bill which the Legislatures of the States would be expected to enact. The Committee was constituted with the following members, namely:—

(1) Shri S. K. Maitra,

Joint Secretary and Legislative Counsel,
Ministry of Law and Justice—*Chairman.*

(ii)

- (2) Shri V. B. Mainkar,
Director, Weights and Measures,
Government of India—*Secretary*.
- (3) Shri Prem Prakash,
Scientist, National Physical Laboratory,
New Delhi.
- (4) Representatives of the Governments of the States of—
 - (a) Andhra Pradesh,
 - (b) Kerala*,
 - (c) Maharashtra,
 - (d) Mysore,
 - (e) Tamil Nadu*,
 - (f) Uttar Pradesh, and
 - (g) West Bengal.
- (5) Representative of the India Government Mint at Bombay*.

The Committee held meetings at the following places on the dates mentioned against each place, namely:—

- (1) Calcutta — 28-30 September, 1967.
- (2) Varanasi — 8-11 January, 1968.
- (3) Mysore — 16-18 July, 1968.
- (4) Tirupati — 21-24 May, 1969.
- (5) Aurangabad — 3-6 November, 1969.
- (6) Kanyakumari — 6-9 April, 1970.
- (7) Puri — 21-25 September, 1970.
- (8) Porbandar — 22-25 February, 1971.
- (9) Dalhousie — 24-30 June, 1971.
- (10) Ranchi — 21-25 February, 1972.

After studying, in depth,—

- (i) the recommendations made by the CGPM and the OIML,
- (ii) the laws prevalent in other countries,
- (iii) other relevant literature on the subject, and
- (iv) different viewpoints communicated to it by the Central Government and the State Governments, the Committee prepared the drafts of two Bills containing its tentative proposals. The said draft Bills were circulated to—

- (i) the Governments of all the States and the Union Territories,
- (ii) the manufacturers, dealers and repairers of weights and measures and weighing and measuring instruments.

* Subsequently, co-opted by the Committee as its members.

(iii) the countries which are members of the OIML, and

(iv) the experts from the CGPM and the PTB of West Germany,

inviting their comments with regard to the proposals contained in those draft Bills. The comments received during the periods intervening between one meeting and the next were considered by the Committee, and after each meeting, the draft Bills were revised in the light of the conclusions arrived at the meeting. The revised draft Bills were circulated to the Members of the Committee and all other persons concerned in the matter for their scrutiny and further comments. As sufficient time was needed for the purpose, the Committee could not meet more often.

In order to iron out the various controversial points which arose out of the proposals with regard to the inter-State trade and commerce in weights and measures and weighing and measuring instruments, etc., the Committee had to hold its meetings in different States. These meetings also gave the Committee an opportunity of acquiring first-hand knowledge of the manner in which the standards of weights and measures prescribed by or under the 1956-Act were being implemented in the States.

At some of the meetings, the representatives of the manufacturers, dealers and repairers of weights and measures and weighing and measuring instruments were given opportunities to express their views with regard to the draft Bills which were under the consideration of the Committee and also to indicate the difficulties, if any, experienced by them, or the deficiencies, if any, in the existing law. The representatives of the Governments of the States who are not members of the Committee, were also given opportunities to express candidly their views with regard to the draft Bills.

After the drafts of the two Bills were tentatively finalised, the Committee prepared the draft of its Report and circulated it to its members and also to other persons concerned in the matter. The draft Report was taken into consideration by the Committee and was revised and enlarged in the light of the comments received by the Committee.

After a close study of the allied laws in other countries and after considering the recommendations made by the CGPM and the OIML and the various view points expressed before it, the Committee has formulated its proposals and included them in the two Bills (appended as the First Schedule and the Second Schedule, respectively, to the Report) and has also prepared a Report explaining the reasons for the provisions which have been included in those Bills.

The final draft of the Report and the final draft of the two Bills prepared by the Committee were adopted unanimously at its meeting held at Ranchi.

The two Bills which have been prepared by the Committee envisage the framing of rules on various subjects. With a view to ensuring that these rules may become uniform throughout India, the Committee intends to take up the framing of the Central rules and the model rules which the State Governments would be expected to make. This part of the task will be taken up by the Committee after the submission of the present Report.


The Committee expresses its gratitude to the Central Government for entrusting the work to it and to the State Governments for making available all facilities which were required by the Committee to conduct its deliberations. The Committee is particularly thankful to the experts from the CGPM, OIML and the PTB for the valuable suggestions made by them. The Committee also expresses its sincere thanks to the invitees for the trouble they took to attend the meetings of the Committee.

But for the active co-operation and encouragement of the members, it would not be possible for me, as the Chairman of the Committee, to submit this unanimous Report to the Government. I, therefore, take this opportunity of thanking all the members of the Committee.

The work of this Committee has recently attracted public attention. The Committee is aware that its recommendations are likely to be critically examined by Government. Nevertheless, it is of the view that this Report should be placed before the Government for its consideration. The Committee feels that the recommendations made by it are practicable and necessary in the public interest and hopes that early action would be taken by the Government to enact the legislations envisaged by the Committee and to implement the other recommendations made by it.

NEW DELHI,
The 15th May, 1972.

S. K. MAITRA,
Chairman.

V. B. MAINKAR,
Member-Secretary,
Director, Weights and Measures, 
Government of India.

PREM PRAKASH
Member,
Scientist, National Physical Laboratory,
New Delhi.

C. V. RAO,
Member,
Deputy Mint Master,
India Government Mint,
Bombay.

B. K. PENTIAH,
Member,
Controller (Weights and Measures),
Government of Andhra Pradesh.

P. RAJAGOPALAN,
Member,
Dy. Controller (Weights and Measures),
Government of Kerala.

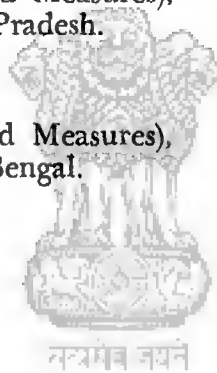
S. B. KULKARNI,
Member,
Controller (Weights and Measures),
Government of Maharashtra.

A. R. MOHAMED IQBAL AHMED,
Member,
Joint Controller (Weights and Measures),
Government of Mysore.

JEELANI HUSSAIN,
Member,
Controller (Weights and Measures),
Government of Tamil Nadu.

SHAFIQ HUSSAIN,
Member,
Controller (Weights and Measures),
Government of Uttar Pradesh.

N. C. ROY,*
Member,
Controller (Weights and Measures),
Government of West Bengal.



*Since transferred to another Department of the Government of West Bengal.

REPORT OF THE WEIGHTS AND MEASURES (LAW REVISION) COMMITTEE, MAY, 1972

CHAPTER I

INTRODUCTORY

In India, the need for a uniform standard of weights and measures appears to have been well understood from the pre-historic times. The uniformity of weights and measures used during the Indus Valley Civilisation, as evidenced from the findings at Mohenjo-Daro, Harappa and other places, and the uniformity in the shapes, denominations and accuracy of weights and measures, as well as in the materials used for their manufacture, indicate that there existed during that civilisation, a central authority regulating the standards of weights and measures.¹

Very little information is available about the standards of weights and measures which were used during the period intervening between the Indus Valley Civilisation and the rise of the Mauryan empire. The "*Arthashastra*" of Kautilya² indicates the existence of a single system of weights and measures, enforced by a Central authority, during the reign of Chandragupta Maurya. It lays down the standards of weights and measures and provides for the enforcement of such standards by a Superintendent of Standardisation. The said Superintendent was charged with the duty to cause factories to be established for the manufacture of standard weights and measures. The standard weights were to be made of iron or stone obtained from the hills in Magadha or Mekala, or of such material as would not increase in weight by water and smearing or decrease in weight by heat. The Superintendent of Standardisation was required to verify and stamp every weight or measure at intervals of four months. He had also the power to inspect every weight and measure which was in use. The traders were required to pay a stamping fee at the rate of one '*kakani*' for every day of the four-month period, which amounted to 30 '*masaka*' (the name of a copper coin) for the four-month period. The penalty for unstamped weights and measures was 27½ '*pana*'.

Although during that period, the base unit of weight was uniform, namely, '*masaka*', there were different denominations of weights for the weighment of gold, silver, diamonds and other commodities.

The *Arthashastra* also lays down the standard of measuring instruments. The Superintendent of Standardisation was required to cause 10 balance-beams to be made, one '*pala*' of metal onwards (in weight) increasing successively by one '*pala*', with scale-pans on the two sides of the fulcrum or a pan on one side only. In the case of balances having a pan on one side only, specifications were laid down as to how the level (for marking zero) was to be secured and how the markings were to be increased by 10 up to 100 '*pala*'. In such cases, the 'fives' were to be marked by a *swastika* mark. Specifications for bigger beam-scales were also laid down.

There were also different standards for the measurement of dry commodities and liquids. The extent of evaporation which would be permissible in the case of ghee, oil or other liquids was also specified.

The prices of different denominations of weights and measures were also specified.

The *Arthashastra* also lays down the units for the measurement of area and also specifies how the area or length was to be determined. It also specifies the units of time and describes how the time of the day, and how the fortnight, month, equinoxes, solstices and other astronomical phenomena, were to be determined.

¹Further, *Excavations at Mohenjo-daro* by J. H. Mackay, published by the Government of India in 1938.

²Kautilya *Arthashastra*, Part II, Book II, Chapters 19 and 20, English translation by Shri R. P. Kangle (University of Bombay, Studies in Sanskrit, Prakrit and Pali, No. 2).

It further specifies that there was to be a Superintendent of Measurements, who was to be conversant with the measurement of space (area) and time.

The uniformity in the standards of weights and measures which was in existence during the Mauryan period was not, however, maintained during the later centuries and, in the absence of a Central authority for the enforcement of the standards of weights and measures, numerous standards of weights and measures came into use in India. In the course of centuries, the number of standards became so bewildering that they not only varied from town to town, but also varied from village to village, market to market, and even from commodity to commodity.

The need to attain uniformity in the standards of weights and measures was all along felt in India after the Mauryan period, but this objective could not be achieved until the independence of the country, although efforts in this direction were made by the Vijayanagar Kings, Sher Shah, Akbar and many other rulers.

During the British period, several attempts were made to attain uniformity in the standards of weights and measures. The most significant achievement of the British in this field was the establishment of the *tola*, which was to be equal to 180 grains troy, as the unit of measurement of weight, and the use of such unit for the derivation of the other denominations of weight, namely, seer of 80 tolas and maund of 40 seers (*vide* Regulation VII of 1833). In 1867, a Committee was formed for the purpose of recommending what steps were necessary to attain uniformity in the standards of weights and measures in India.¹ The President of that Committee, Col. Richard Strachey, strongly advocated the adoption of the metric system, but he had to resign from the Presidentship of that Committee, because the other members of the Committee did not agree with his proposals. His proposals were, however, supported by the then Viceroy and consequently the Weights and Measures Act of 1870 was enacted. That Act specified 'Ser' as the standard of weight, and a Ser, when weighed in a vacuum, was to be equal to the Kilogramme in France. A measure containing one Ser of water, at its maximum density, weighed in a vacuum, was to be the measure of capacity. The "metre", "square metre" and "cubic metre" were respectively declared to be the standards of length, area and measures of solidity. The Act of 1870, which had adopted the metric system of weights and measures, was, however, disallowed by the Queen,² and in 1871, the Indian Weights and Measures of Capacity Act was enacted.

As regards the standards of weights and measures of capacity, there was no substantial difference between the 1870-Act and 1871-Act. As in the 1870-Act, the primary standard of weight was declared by the 1871-Act, to be a Ser, which was to be the weight of metal in the possession of the Government of India, equal, when weighted in a vacuum, to the weight known in France as the Kilogramme des Archives. The units of weight and the measures of capacity were declared to be—

- (i) for weights, the said 'Ser'; and
- (ii) for measures of capacity, a measure containing one such Ser of water at its maximum density, weighed in a vacuum.

The difference between the Acts of 1870 and 1871 related to the standards of length, area and measures of solidity. While standards with regard to these matters were laid down by the 1870-Act, no standards with regard to these matters were laid down by the 1871-Act. The 1871-Act further empowered the Governor-General-in-Council to declare, by notification in the Official Gazette, the magnitude and denominations of the weights and measures of capacity, other than the above-mentioned units, to be authorised under the Act. But no such notification appears to have been issued. Thereafter, in 1889, the Measures of Length Act was enacted whereby the Imperial standard yard of the United Kingdom was established as the standard measure of length. No standard of area or measure of solidity was, however, established by the 1889-Act.

¹Memorandum on the Introduction Metric System of in India by Pitambar Pant (1955).

²Despatch No. 41 (Legislative) dated the 6th July, 1871, from the Secretary of State for India to the Governor-General of India-in-Council.

After the enactment of the aforesaid legislations, several committees were constituted by the British Government for the introduction, in India, of a uniform standard of weights and measures. But the labours of these committees did not lead to any concrete results. One Mr. A. Y. G. Campbell, a member of one of such Committees, strongly recommended the adoption, in India, of the metric system of weights and measures.¹ But that recommendation was not accepted. After 1889, no legislation on the subject was enacted for a period of about 50 years.

The Government of India Act, 1935, which came into force on the 1st day of April, 1937, empowered the Central Legislature to legislate with regard to the standards of weight only. In pursuance of that power, the Standards of Weight Act was enacted in 1939. That Act was brought into force on and from the 1st day of July, 1942. By that Act, the Indian Weights and Measures of Capacity Act, 1871, in so far as it related to the establishment of standards of weight, was repealed. The standards of capacity, as established by the 1871-Act, therefore, continued to be in force until the enactment of the Standards of Weights and Measures Act, 1956.

The bewildering variety of standards of weights and measures which were prevalent in India during the past 2,000 years, continued to be in force in India in spite of the partial regulation which was made by the aforesaid legislations. It was the genius and foresight of the then Prime Minister, Pandit Jawaharlal Nehru, which were responsible for the enactment of the Standards of Weights and Measures Act, 1956, whereby a uniform system of weights and measures, namely, the metric system, was adopted in India. That Act was enacted in pursuance of the provisions of the Constitution of India under which the field of legislation with regard to weights and measures has been divided between the Union and the States. Under entry 50 of the Union List, Parliament is competent to establish, by law, the standards of weights and measures, and under entry 29 of the State List, the State Legislatures are competent to legislate with regard to weights and measures other than the establishment of standards thereof. The Constitution thus gave a greater power to Parliament than what the Central Legislature had under the Government of India Act, 1935, and the State Legislatures also got a specific power to legislate on the subject of weights and measures except the establishment of the standards thereof. In pursuance of the powers conferred by entry 29 of the State List, the State Legislatures enacted, after the enactment of the Standards of Weights and Measures Act, 1956 (hereafter referred to in this Report as 'the 1956-Act'), laws for the enforcement of the standards of weights and measures established by the 1956-Act.

In the past, whenever any economic or social reform was made, there was considerable resistance to such a reform. In the circumstances, there was a possibility of similar resistance to the adoption, in India, of the metric system. Any hasty step to force the pace of the reforms made by the 1956-Act would have generated such resistance. Hence, great foresight was shown with regard to the enforcement of the provisions of the 1956-Act, and they were enforced very slowly, but steadily, in discreet phases. As a result of this caution, the metric system has taken firm roots in this country without there being any fanfare about it. The Committee, therefore, takes this opportunity of putting on record its deep appreciation of the work done by those officers, manufacturers, traders and other persons, who were responsible for bringing about a silent revolution in the field of weights and measures in this country. The Committee hopes that the same zeal, devotion and discretion would be shown by those persons whose duty will be to carry forward the said revolutionary reforms to newer fields of human endeavour.

The 1956-Act, though enacted on the 28th December, 1956, was not brought into force until 1958. Sufficient time was allowed for the preparatory work to be completed and for the people to become conversant with the metric system and the rules regarding the conversion of the old weights and measures into metric weights and measures. The period of gestation which was thus allowed proved to be the main cause for the smooth change-over from the old system to the metric system.

The chronological data given in Appendix 'A' would indicate how the metric system was gradually extended throughout India.

¹Report of the Weights and Measures Committee, 1913-14.

The 1956-Act was based on the units of weights and measures as they were internationally recognized at the time of the enactment of that Act. But after the enactment of that Act, the General Conference of Weights and Measures (CGPM)¹ adopted, in 1960, a practical system of units of weights and measures suitable for adoption by all the signatories to the Metre Convention. This practical system of units of weights and measures was given the name "Le Systeme International d'Unites" (the international system of units), with the international abbreviation "SI". The SI units are divided into three classes, namely, the base units, derived units and supplementary units.

Considering the advantages of a single, practical and world-wide system for international relations, for teaching and for scientific work, the CGPM decided to base the international system on six well-defined units, namely:—

- (1) the metre (for length);
- (2) the kilogram (for mass);
- (3) the second (for time);
- (4) the ampere (for electric current);
- (5) the kelvin (for thermodynamic temperature); and
- (6) the candela (for luminous intensity).

A seventh base unit, namely, "the mole" (for amount of substance) was recommended, in October, 1971, by the CGPM for international adoption.

BASE UNITS

The position of the said seven base units *vis-a-vis* the primary units established by the 1956-Act is as follows:—

Unit of Length

Under the 1956-Act, as originally enacted, the primary unit of length was defined as the distance between the axes of two median lines traced on the platinum-iridium bar deposited at the International Bureau of Weights and Measures and declared international prototype of the metre by the first CGPM (1889). The CGPM had, however, substituted, in 1960, the definition of the metre by the following:—

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"The metre is the length equal to 1 650 763.73 wavelengths in vacuum of the radiation corresponding to the transition between the levels ²p₁₀ and ²d₅ of the krypton-86 atom."

As a result of the alteration in the definition of the "metre", the 1956-Act was amended in 1964, and the "metre" was defined in accordance with the definition adopted by the CGPM in 1960. The said definition is now included in the SI.

Unit of Mass

Under the SI, kilogram is the base unit of mass; it is equal to the mass of the international prototype of the kilogram. The first CGPM (1889) recognised the international prototype of the kilogram and declared: "this prototype shall henceforth be considered to be the unit of mass.". The international prototype, made of platinum-iridium, is kept at the BIPM under conditions specified by the first CGPM in 1889.

There is no substantial difference between the definition of the kilogram as included in the SI and as defined in the 1956-Act.

Unit of Time

Before the enactment of the 1956-Act, the unit of time, the second, was defined as the fraction 1/86,400 of the mean solar day. The exact definition of "mean solar day" was left to astronomers, but their measurements showed that on account of irregularities

¹For details with regard to 'CGPM' and the 'Metre Convention', please see Chapter IV.

in the rotation of the Earth, the mean solar day did not guarantee the desired accuracy. In order to define the unit of time more precisely, the CGPM adopted a definition given by the International Astronomical Union which was based on the tropical year. This definition was incorporated in the 1956-Act. Thereafter, the CGPM made a slight refinement in the definition of the 'second'. Consequently, the definition of the 'second', as originally incorporated in the 1956-Act, was amended in 1964. Subsequent to the said refinement of the definition of the 'second', experimental work showed that an atomic standard of time-interval, based on a transition between two energy levels of an atom or a molecule, could be realised and reproduced much more accurately. Considering that a very precise definition of the unit of time is indispensable for the needs of advanced metrology, the CGPM decided, in 1967, to replace the definition of the second by the following:—

"The second is the duration of 9 192 631 770 periods of the radiation corresponding to the transition between the two hyperfine levels of the ground state of the caesium-133 atom."

The said definition has been included in the SI.

Unit of Electric Current

In 1948, the CGPM adopted the 'ampere' as the unit of electric current and defined the 'ampere' as follows:—

"The ampere is that constant current which, if maintained in two straight parallel conductors of infinite length, of negligible circular cross-section, and placed 1 metre apart in vacuum, would produce, between these conductors a force equal to 2×10^{-7} newton per metre of length."

This definition has been included in the SI. There is no substantial difference between the definition of the ampere as included in the SI and as defined in the 1956-Act.

Unit of Thermodynamic Temperature

Under the 1956-Act, Centigrade (which is also known as Celsius) was adopted as the scale of temperature. According to the said scale, temperature, under normal atmospheric pressure, is taken to be zero degree at the melting point of ice and one hundred degrees at the boiling point of water.

With present day technique, the triple point of water is capable of providing a thermometric reference point with an accuracy higher than can be obtained from the melting point of ice. The CGPM selected the triple point of water as the fundamental fixed point and assigned to it the temperature 273.16 K, declared the kelvin to be the base unit of thermodynamic temperature, and defined the kelvin as follows:—

"The kelvin, unit of thermodynamic temperature, is the fraction $1/273.16$ of thermodynamic temperature of the triple point of water."

The said definition has been included in the SI.

The CGPM also decided that the unit of kelvin and its symbol K should be used to express an interval or a difference of temperature.

The unit "degree Celsius" was also declared to be equal to the unit "kelvin" and an interval or a difference of Celsius temperature may also be expressed in degrees Celsius.

Unit of Luminous Intensity

Under the 1956-Act, the "candela" was the unit of luminous intensity.

In 1967, the CGPM amended the definition of the 'candela', and defined the same as follows:—

"The candela is the luminous intensity, in the perpendicular direction, of a surface of $1/600\,000$ square metre of a black body at the temperature of freezing platinum under a pressure of 101 325 newtons per square metre."

The said definition has been included in the SI.

Unit of amount of substance

Since the discovery of the fundamental laws of chemistry, units of amount of substance called, for instance, 'gram-atom' and 'gram-molecule', have been used to specify amounts of chemical elements or compounds. These units had a direct connection with 'atomic weights' and 'molecular weights'. 'Atomic weights' were originally referred to the atomic weight of oxygen (by general agreement taken as 16). But whereas physicists separated isotopes in the mass spectrograph and attributed the value 16 to one of the isotopes of oxygen, chemists attributed that same value to the (slightly variable) mixture of isotopes 16, 17 and 18 which was, for them, the naturally occurring element oxygen. Finally, an agreement between the International Union of Pure and Applied Physics and the International Union of Pure and Applied Chemistry brought this duality to an end in 1959/60. Physicists and chemists have ever since agreed to assign the value 12 to the isotope 12 of carbon. The unified scale thus obtained gives values of 'relative atomic mass'. The mass corresponding to the unit of amount of carbon 12 still remained to be fixed; by international agreement it has been fixed at 0.012 kg and the unit of the quantity 'amount of substance' has been given the name 'mole' (symbol: mol).

Following the said agreement, the CGPM included in the SI, in October, 1971, an additional base unit, namely, the "mole", as the base unit of substance. The "mole" has been defined by the CGPM as follows:—

'The "mole" is the amount of substance of a system which contains as many elementary entities as there are atoms in 0.012 kilogram of carbon 12.'

With the said definition, a note has been added by the CGPM to the following effect, namely:—

"Note—When the mole is used, the elementary entities must be specified and may be atoms, molecules, ions, electrons, other particles, or specified groups of such particles."

Supplementary Units

Besides the base units and the derived units, the CGPM has also admitted a third class of SI units, called supplementary units, for which it declined to state whether they are base units or derived units.

Under the SI, the supplementary units are :—

- (i) the radian (for plane angle) ; and
- (ii) the steradian (for solid angle).

Derived Units

The derived units are those which can be formed by combining the base units according to the algebraic relations linking the corresponding quantities. Several of these algebraic expressions in terms of these units can be replaced by special names and symbols, which can themselves be used to form other derived units.

Under the SI, the derived units are :—

- (i) square metre (for area);
- (ii) cubic metre (for volume);
- (iii) metre per second (for speed, velocity);
- (iv) metre per second squared (for acceleration);
- (v) one per metre (for wave number);
- (vi) kilogram per cubic metre (for density, mass density);
- (vii) mole per cubic metre [for concentration (of amount of substance)];

- (viii) one per second [for activity (radioactive)];
- (ix) cubic metre per kilogram (for specific volume);
- (x) candela per square metre (for luminance);
- (xi) hertz (for frequency);
- (xii) newton (for force);
- (xiii) pascal (for pressure);
- (xiv) joule (for energy, work, quantity of heat);
- (xv) watt (for power, radiant flux);
- (xvi) coulomb (for quantity of electricity, electric charge);
- (xvii) volt (for electric tension, electric potential);
- (xviii) farad (for capacitance);
- (xix) ohm (for electric resistance);
- (xx) siemens (for conductance);
- (xxi) weber (for magnetic flux);
- (xxii) tesla (for magnetic flux density);
- (xxiii) henry (for inductance);
- (xxiv) lumen (for luminous flux);
- (xxv) lux (for illuminance);
- (xxvi) pascal second (for dynamic viscosity);
- (xxvii) metre newton (for moment of force);
- (xxviii) newton per metre (for surface tension);
- (xxix) watt per square metre (for heat flux density, irradiance);
- (xxx) joule per kelvin (for heat capacity, entropy);
- (xxxi) joule per kilogram kelvin (for specific heat capacity, specific entropy);
- (xxxii) joule per kilogram (specific energy);
- (xxxiii) watt per metre kelvin (for thermal conductivity);
- (xxxiv) joule per cubic metre (for energy density);
- (xxxv) volt per metre (for electric field strength);
- (xxxvi) coulomb per cubic metre (for electric charge density);
- (xxxvii) coulomb per square metre (electric flux density);
- (xxxviii) farad per metre (for permittivity);
- (xxxix) ampere per square metre (for current density);
- (xl) ampere per metre (for magnetic field strength);
- (xli) henry per metre (for permeability);
- (xlii) joule per mole (for molar energy);
- (xliii) joule per mole kelvin (for molar entropy, molar heat capacity);
- (xliv) radian per second (for angular velocity);
- (xlv) radian per second squared (for angular acceleration);
- (xlvi) watt per steradian (for radiant intensity);
- (xlvii) watt per square metre steradian (for radiance).

Amendment of SI Units

The definitions of base units of weights and measures were amended, from time to time, by the CGPM for the purpose of attaining greater degree of accuracy in measurement.

The provisions relating to the derived and supplementary units and amendment thereof from time to time, would also lead to a greater degree of accuracy in measurements.

Purpose of SI Units

The purpose of the SI units is to ensure reliability of the standards of measurement to engineers and technologists in industry. Besides, advances in measurement are almost always expected to have useful economic consequences in some segment of Government or industry.

Decimal Multiples and Sub-multiples of SI Units

The CGPM has adopted a series of names of prefixes to form decimal multiples and sub-multiples of SI units. They are—

Factor	Prefix	Factor	Prefix
10^{12}	tera	10^{-1}	deci
10^9	giga	10^{-2}	centi
10^6	mega	10^{-3}	milli
10^3	kilo	10^{-6}	micro
10^2	hecto	10^{-9}	nano
10^1	deca	10^{-12}	pico
		10^{-15}	femto
		10^{-18}	atto

Units outside the SI

The CIPM¹ recognised that users of SI may also wish to employ some units which, though not part of the SI, are in widespread use. These units outside the SI play such an important part that they have to be retained for general use with the SI. They are:—

(a) multiples of units of time—

- (i) minute,
- (ii) hour,
- (iii) day;

(b) measurement of angle—

- (i) degree,
- (ii) minute,
- (iii) second;

(c) tonne;

(d) litre.

The CIPM has also recognised some other units, outside the SI, which are useful in specialised fields of scientific research, because their values expressed in SI units have to be obtained by experiment, and are, therefore, not known exactly. Such units are:—

- (i) electronvolt - 1 electronvolt is the energy acquired by an electron in passing through a potential difference of 1 volt in vacuum.

¹For details with regard to CIPM, please see Chapter IV.

- (ii) unified atomic mass unit - the unified atomic mass unit is equal to the fraction $1/12$ of the mass of an atom of the nuclide ^{12}C .
- (iii) astronomical unit - astronomical unit of distance is the length of the radius of the unperturbed circular orbit of a body of negligible mass moving round the Sun with a sidereal angular velocity of 0.017 202 098 950 radian per day of 86 400 ephemeris seconds.
- (iv) parsec - 1 parsec is the distance at which 1 astronomical unit subtends an angle of 1 second of arc.

Units accepted temporarily

The CIPM considered that it was preferable to keep, for the time being, for use with those of the SI, the following units, namely: —

- (i) nautical mile - the nautical mile is a special unit employed for marine and aerial navigation to express distances.
1 nautical mile = 1852 m.
- (ii) knot - one nautical mile per hour.
- (iii) angstrom - for measurement of wavelength of light.
- (iv) arc - for measurement of area of land.
- (v) hectare - for measurement of area of land.
1 hectare = 100 arc.
- (vi) barn - employed in nuclear physics to express effective cross sections.
- (vii) bar - for expressing pressure.
- (viii) standard atmosphere - for expressing pressure.
- (ix) gal - employed in geodesy and geophysics to express the acceleration due to gravity.
- (x) curie - employed in nuclear physics to express activity of radionuclides.
- (xi) rontgen - employed to express exposure of X or gamma rays.
- (xii) rad - employed to express absorbed dose of ionizing radiations.

India, being a signatory to the Metre Convention, is under an obligation to make a law to give effect to the recommendations of the CGPM. The International Organization of Legal Metrology (OIML)¹ which is responsible for the preparation of international laws on weights and measures, called legal metrology² has recognised all the SI units and other units for legal purposes and has prepared the draft of a legislation which the member countries are expected to enact. The object of the said legislation is to further the development of scientific and technical knowledge and the improvement of national economy by the establishment of uniform national standards of weights and measures as well as by the modernisation and improvement of the precision of measurements and measuring instruments. India, being a signatory to the Convention under which the OIML operates, is under a further obligation to give effect to the recommendations made by that Organisation.

In the rapidly developing world of science and technology, a country like India cannot afford to ignore the SI and the other units which have been internationally accepted. The incorporation of the SI and the other units in the law on the subject is, therefore, urgently necessary. In view of the necessity of incorporating the SI and the other units into our law, and Parliament being competent to undertake such legislation (*vide* article 253) and entry 14, read with entry 50, of the Union list), the Central Government constituted this Committee to determine how the 1956-Act should be revised and brought in line with the recommendations made by the CGPM and the OIML. This Committee has, therefore, been entrusted with the task of the preparation of the draft of the legislation by which the 1956-Act may be replaced. The replacement of the 1956-Act by a new Act would necessitate the enactment by each State of a new law for the enforcement of the standards of weights and measures established by or under the Central Act. Hence this Committee has also been entrusted with the task of preparation of the draft of a model

¹For details with regard to OIML, please see Chapter IV.

²For definition of "legal metrology", please see Chapter IV.

Bill, which, if enacted by the State Legislatures, would ensure uniformity in the enforcement in the States of the standards of weights and measures established by or under the Central Act.

The 1956-Act does not conform to the model law prepared by the OIML and is also skeletal, in that it only specifies the primary units of weights and measures and provides for the transition from the old units to the metric units. Various fields in which weights or measures play a significant role are not covered by the 1956-Act. For example, the 1956-Act does not provide for the regulation of inter-State trade and commerce in weights or measures and in other commodities which are sold or distributed by weight, measure or number. The experience gained in the implementation of the 1956-Act shows that this omission had caused, and is causing, considerable difficulties with regard to inter-State trade and commerce in weights and measures and in commodities which are sold or distributed by weight, measure or number, and has also given rise to several types of malpractices.

There exists in this country a variety of methods of packaging, labelling and advertising commodities which are intended to be sold by weight, measure or number. Such variety confuses the consumer as to the comparative advantages or disadvantages of buying one or the other of the particular package or commodity needed by him. It is, therefore, necessary to establish standards of packaging, labelling and advertising commodities which are intended to be sold by weight, measure or number. It is also necessary to ensure that each package indicates the net contents by weight, measure or number of the commodity contained in the package. This was not done by the 1956-Act. The metrological control of packaged commodities, determination of tolerances on quantities contained in packages and other related matters recommended by the OIML, is required to be provided for in the law relating to weights and measures.

The 1956-Act does not also contain any provision with regard to the approval of models of weighing and measuring instruments. Such approval is necessary with a view to ensuring that the weighing or measuring instruments, when put in use, may give satisfactory and reliable results, under varied conditions, over a long period of time. Inclusion in the law of provisions relating to approval of models of weighing and measuring instruments has also been recommended by the OIML.

Since the implementation of the standards of weights and measures established by or under the Central Act is the responsibility of the State Governments, it is necessary to ensure that the enforcement personnel is properly trained in the techniques of verification and inspection of a large variety of weights and measures and weighing and measuring instruments. Such training should be Centrally sponsored so that there may be a uniformity in all the States with regard to the techniques of verification and inspection of weights and measures and weighing and measuring instruments. A provision for the establishment of a training institute for the purpose and for the regulation of such training should, therefore, find a place in the Central Act. But the 1956-Act does not provide for any such training.

The Committee feels that the uniformity in the standards of weights and measures established by or under the 1956-Act has, by and large, been attained in the commercial field. The Committee, however, regrets to find that the said standards have not yet been adopted by some departments of Government, both at the Centre and in the States. Under the 1956-Act, a period of three years was allowed for transition from the old units to the metric units in respect of each field to which the Act was made applicable. An over-all time limit of ten years was, however, imposed by the Act for bringing all the provisions of the Act into force. It will, therefore, be seen that even the maximum transitional period allowed by the Act had also expired long ago. Yet the provisions of the legislation made by Parliament have not been given effect to by some of the departments of Government, both at the Centre and in the States.

The Chief Minister of Orissa, Shri R. N. Singh Deo, who had very kindly attended the inaugural meeting of this Committee at Bhubaneswar dwelt on this point and impressed upon the officers of his Government of the necessity of making a quick change-over to the metric system. The Committee hopes that the advice given by the Chief Minister of Orissa will be followed not only by the defaulting departments under the

Government of that State, but also by those departments under the Governments of other States and the Central Government, who have not yet completed the change-over to the metric system.

The enforcement of the 1956-Act having been limited to the commercial field, the time has now come for the enforcement of the provisions of that Act in other fields of human endeavour. The Committee hopes that the same zeal and caution, as was shown and exercised at the time of the extension of the Act to the fields of trade commerce, would be exercised in the enforcement of the law in other fields of human endeavour.

For the purpose of revision of the law relating to weights and measures, the Committee took into account the various recommendations which have been made by the CGPM and the OIML and also studied the laws in force on the subject in the other countries¹.

The first drafts of the Bills prepared by the Committee were circulated to the countries who are members of the OIML. While revising the said drafts of the Bills, the Committee took into consideration the comments which were made by those countries. The Committee was glad to note that the comments made by the Australian authorities indicated that the Bills prepared by the Committee contained some welcome features which the Australian authorities desired to consider².

The Chairman and the Member-Secretary of the Committee had the privilege of having detailed discussions with the President of the International Committee of Legal Metrology, Mr. A. J. van Male, when he came to New Delhi, regarding the proposals under the consideration of the Committee. These proposals were discussed with Mr. van Male in the light of the developments in the field of legal metrology in the international sphere, with particular reference to its impact on developing countries. Mr. van Male was of the view that the law envisaged by the Committee substantially conforms to the draft of the legislation prepared by the OIML and the approach of the Committee to the problems is in line with the current thinking of the OIML.

The Chairman and the Member-Secretary of the Committee had also the opportunity of discussing with experts from the Physikalisch Technische Bundesanstalt (PTB) of the Federal Republic of Germany (Dr. K. P. Schweimer and Dr. H. Bluschke), when they came to New Delhi, with regard to the correspondence of the law envisaged by the Committee and the law on the subject prevailing in the Federal Republic of Germany. They confirmed that in the new German legislation corresponding problems were treated in partly a similar manner as it is intended in India.

A copy of the draft Report and a copy of the draft of the Central Bill and the Model State Bill proposed by the Committee were delivered to (1) Mr. A. J. van Male, President of the International Committee of Legal Metrology, (2) Mr. Jean Terrien, Director, International Bureau of Weights and Measures, and (3) Dr. K. P. Schweimer, who is in charge of that Division of the PTB of the Federal Republic of Germany, which deals with assistance to developing countries.

¹For details, please see Appendix 'B'.

²*Vide* letter dated 28th March, 1969 of the National Standards Commission, Australia, forwarding therewith the comments of the Weights and Measures Office of the Government of Victoria, the relevant portions of which are:

"Clause 27 : The requirement to purchase certain opened packages from retailers is interesting. It is arguable that we should consider something along these lines.

Clause 28 : Sub-clause (4) makes a strong appeal to me. We have no such provision and have in fact had some trouble with people advertising packaged goods at a stated weight and price and then offering prospective buyers packages of lower weights but at the same price.

Clause 29 : This clause in effect provides for "Standardization" in terms of number, which we do not have; possibly we should consider it.

With packaged goods, problems of jurisdiction may arise in India, in relation to inter-State consignments. Experience in Australia indicates that great difficulties are to be expected, unless the requirements of all States in regard to packaged goods are identical; even then, the problem of the "inter-State offender" may be much influenced by the relevant constitutional provisions in India, on which I do not have the information needed for the making of any useful comment; it could be that, in India, some "Central" action will prove necessary or desirable in connection with inter-State transactions in packaged goods."

After going through the Report and the draft of the two Bills, Mr. A. J. van Male wrote¹ as follows:—

"I have received your letter of June 17, 1971, with the enclosed copies of the drafts of the Central Bill and the State Bill.

I have studied the Bills as carefully as possible and I think in these Bills India is making a considerable progress in metrological legislations.

Of course I do not know all the particular circumstances in your country and in all the States, but I can understand that the need for implementing rules is different from country to country and as a matter of fact has to differ considerably from your country to mine.

I was very glad to see in the proposed organisation of legal metrology in your country a centralization of the approval of models and a possibility of mutual recognition of verification marks between the different States. In my opinion it is a real progress for the future development. The care for basic standards, type-approval is a central task as well as the training of adequate personnel to certain level. An adequate organisation of the administration of the metrology department is an essential step forward to make it possible to supervise and co-ordinate metrological activities in a country."

* * * * *

Mr. Terrien wrote² as follows:—

"We have received with your letter of 10 December, 1971 the documents relating to the draft of the new Indian law on weights and measures. We have read with interest these documents which explain in a complete and documented manner the necessity for the adoption of a new law in replacement of that of 1956.

(Translated from the original letter, which is in French.)

* * * * *

Dr. K. P. Schweimer wrote³ as follows:—

"First of all, I like to sincerely congratulate the Maitra Committee on the excellent elaboration of this Report. Further I can attest that the statements made in this document, as far as they can be compared with the situation in other countries, do fully correspond to the international recommendations concerned. They also come very close to the German regulations.

"* * * * *

The Committee also gave opportunities to the manufacturers, repairers and dealers of weights and measures to make representations with regard to the difficulties experienced by them. The Committee also gave opportunities to those representatives of the manufacturers, etc., who volunteered to be examined by the Committee, to appear before it. The Committee with adequate secretarial assistance, could not make a verbatim record of the evidence which was given by these witnesses. References to the evidence, wherever necessary, have, however, been made in this Report.

¹Vide his letter, dated September 9, 1971 to Shri. V. B. Mainkar, Member-Secretary to the Committee.

²Vide his letter No. Mo/LD, dated 12 January 1972, to Shri V. B. Mainkar, Member-Secretary to the Committee.

³Vide his letter No. 0.32-6229/72, dated February 24, 1972, to Shri. V. B. Mainkar, Member-Secretary to the Committee.

With a view to acquainting itself with the problems which have been experienced in the course of enforcement of the law relating to weights and measures and also as to the extent of such enforcement, the Committee visited, at the invitation of the respective State Governments, the States of Andhra Pradesh, Bihar, Gujarat, Himachal Pradesh, Maharashtra, Mysore, Orissa, Tamil Nadu, Uttar Pradesh and West Bengal. The Committee was glad to find that as a result of its visit, there was greater appreciation as to the need for the proper implementation of the law and this appreciation gave a fillip to the enforcement of the law in each of the States visited by it. The Committee had detailed discussions with the officers and staff connected with the enforcement of weights and measures in each of the States visited by it and also heard their grievances with regard to their conditions of work.

After considering the recommendations made by the CGPM and the OIML and after studying all aspects of legal metrology in depth in the light of the provisions of the laws on the subject in other countries, and hearing the various view-points expressed before it, the Committee has formulated definite proposals with regard to the matters which, in its opinion, ought to be included in the Central law. These proposals have been incorporated in the draft of a Bill, prepared by the Committee, which is specified in the First Schedule to this Report. The Committee hopes that the Central Government would like to undertake legislation on the lines of the said draft Bill.

On an examination of the deficiencies in the existing State laws with regard to the enforcement of the standards of weights and measures, and after considering the various suggestions which were made before it, the Committee has formulated specific proposals with regard to the matters which, in its opinion, ought to be included in the State law. These proposals have been incorporated in the draft of a model Bill prepared by it, which is specified in the Second Schedule to this Report. The Committee hopes that the Government of each State, or Union Territory having a legislature, would like to undertake legislation on the lines of the said model Bill. It, however, goes without saying that the State legislation, being dependent on the Central legislation, cannot be undertaken until the Central legislation has been enacted by Parliament.

Both the Bills drafted by the Committee envisages the framing of rules by the respective governments. These rules would mostly contain highly scientific and technical matters. Further, it is necessary to ensure that the rules made by the State Governments should be uniform throughout India. For achieving such uniformity, it is necessary to prepare the draft of a set of model rules. The Committee, therefore, proposes to take up the drafting of the rules after the submission of this Report to the Central Government and intends to submit a further Report to the Central Government after the drafting of the rules has been completed.

CHAPTER II

IMPORTANCE OF LEGAL METROLOGY

From ancient times, a pair of scales, held even, has been regarded as a symbol of justice. The motif of the building of the Supreme Court of India is also a pair of scales, held even. The said symbol has all along been adopted with a view to impressing upon the people that justice is meted out so evenly that the scales of justice do not tilt on either side.

Attention has been drawn to the said symbol with a view to indicating the importance of the role which has been assigned to the accuracy of a weight or measure or weighing or measuring instrument in every sphere of human endeavour. An inaccurate weight or measure or weighing or measuring instrument may not only cause pecuniary or other loss to the individual or the community, but may even lead to the death of one or more individuals. For example, if a balance used by a chemist or druggist, who is preparing a poisonous drug, is inaccurate, the drug, instead of curing the patient, may cause his death. Similarly, the injection of a medicine through an inaccurate hypodermic syringe may turn life into death. Exposure, in excess of the safe limits, to X-rays, gamma rays, etc., may cause permanent damage to the essential cells in the human body. A clinical thermometer, a blood pressure instrument or any other measuring instrument or device, used by the medical practitioner or the pathologist may, if it is inaccurate, lead to incorrect diagnosis and its attendant risks.

With the spread of modern civilization, air is becoming progressively polluted by smokes and other gases, emitted by factories, motor vehicles, etc. Millions of cars are suffocating cities. Smoke-stacks belch smoke containing particles and noxious chemicals, such as, sulphur oxides and nitrogen oxides, round the clock. The intake of noxious chemicals, polluting the environment, is a health hazard. In Japan, about 4,000 people are now officially recognised as suffering from diseases caused by the intake of noxious chemicals polluting the environment. They are receiving Government medical care, namely, free hospitalisation and allowances up to Rs. 210 per person. Scientists and physicians in Japan believe that industrial exhausts and noxious fumes from a mushrooming number of automobiles have actually affected an immeasurably large number of Japanese (*vide* "The Polluted Land", Imprint, July, 1971).

Kawasaki, the hub of Tokyo-Yokohama industrial complex, reports cases of suicides by old people who chose death rather than endure spells of asthma caused by polluted air. In Yokkaichi, a highly industrialised south-western Japanese city, there are scores of people recuperating from respiratory diseases inside large glass compartments situated within a hospital. The hospital air is so polluted as to have been declared unfit for these patients (*vide* "The Polluted Land", Imprint, July, 1971).

Foul air not only causes human ailments but also attacks buildings, cracks rubber tyres, ruins nylon stockings. It was recently reported in newspapers that the amount of damage which Hitler's bombs could not cause to the St. Paul's Cathedral in London, has been caused, in recent time, by the pollution of air. According to the American weekly "Time" (dated 8-8-1969), air pollution costs to each American, on an average, 65 dollars a year and the figure increases to 200 dollars per year in cities like New York and St. Louis.

In Japan, the Government plans to spend, in 1971, a total of Rs. 187.5 crores to combat pollution (*vide* "The Polluted Land", Imprint, July, 1971).

Industrialisation has not only added to the pollution of air but has also led to the pollution of water and land, on account of the discharge of effluents by factories through land, into seas, rivers, lakes and ponds. The increasing use of pesticides in agriculture and horticulture has become a further source of pollution of water because poisonous chemicals which are used for destruction of pests are washed down by rain into seas,

ivers, lakes and ponds. The flow of such contaminated water gradually increases the concentration of poisonous chemicals in the sources of water. Fish and other aquatic animals which live in these waters imbibe those chemicals in their bodies. The concentration of such poisonous chemicals in the bodies of such fish or other aquatic animals is increasing day by day. A day may come very shortly when a person, on consuming such fish or other aquatic animal, may expose himself to serious illness which may, in some cases, become fatal.

In fact, in Kumamoto (Japan), doctors found mercury from a chemical plant had taken the lives of more than sixty residents who had eaten mercury contaminated fish caught in nearby waters (*vide* "The Polluted Land", Imprint, July, 1971). Waters around Japan's four major islands are so polluted that fishermen claim an annual loss of at least Rs. 300 crores in fish killed or made unfit for human consumption (*ibid*).

The examples cited above clearly establish the need to determine accurately the concentration of pollutants present in the air, water or any eatable by frequently measuring the extent of pollution and using such methods as may be necessary to keep the pollution within the limits of safety.

Atomic fall out has emerged as a new source of pollution of air, water and vegetation. It has been observed by scientists that atomic fall-out is causing deposits of strontium and other pollutants in grass, leaves and vegetables and the pollutants so deposited are passing into the milk of cows and other animals consuming such grass, leaves and vegetables. The consumption of milk or meat containing strontium or other pollutants in excess of the safe limits may endanger human life. It is reported that in Australia there were occasions when consumption of milk containing higher quantities of strontium had to be prohibited. The accurate measurement of the extent of the deposits of strontium or other pollutants in grass, etc., is, therefore, essential for the safety of the community.

The pollution of air, water or land, whether caused by smokes, gases, pesticides, effluents or atomic fall-out, may not only pose a threat to human and other animal life but may also affect the vegetation of the country and render large tracts of land barren or waste.

Noise is fast emerging as a major pollutant of the environment. The roar of jet planes, honking of buses, taxis and cars, the noise of rushing vehicles, screeching of tyres, wailing of emergency vehicle sirens, backfire from motor vehicles, the din of factories, the thunder of construction machinery are contributing to the high level of noise in urban areas. Unpleasant noises are, however, not confined to urban areas. Noise levels are increasing in almost every inhabited area. Now-a-days, the countryside too is shaken by the rattle of motorised farm implements, pump sets, tractors and harvest combines, the droning and buzzing on nearby highways and the rumble of aeroplanes overhead. The widespread use of radios, transistors and loudspeakers without any check on their volume, contributes to the growing cacophony. The health hazard of noise is as serious as that posed by the polluted air, water or land. Exposure to excessive noise may not only produce adverse physiological effects, such as hypertension, heart diseases and deafness, but may also impair health and prevent recuperation.

According to a recent leading article in the medical journal "Lancet", at least one in eight people exposed to excessive noise (industrial workers, for example), will suffer a fairly ultra rapid loss of hearing after a period of weeks or months of exposure. Others may take longer but none can escape.

Very intense noise may also affect efficiency. For instance, it was found, on an examination in an English electronics factory, that noisy conditions caused 110 assembly workers to make 260 mistakes in 24 hours. With the noise reduced, only 7 mistakes occurred during the same period.

According to a survey conducted by the Indian Council of Medical Research, it was found that rising levels of noise in our environment shatter human health and cut down longevity. Intense noise not only inflicts irreversible damage on the ear but affects the whole body. Besides causing coronary ailments and mental disorders, it causes irreparable damage to unborn babies, if pregnant mothers are exposed to it (*vide* Mother India, April, 1971).

It is therefore, time that we should be as conscious of decibels as we are conscious of degree Celsius by which temperature is measured. (Noise levels are measured in terms of decibels according to which just audible sound is 0 decibel and the noise level in a can manufacturing plant is reckoned as 100 decibels.) It would be necessary to so accurately measure and control the decibels that the noise level may not go beyond the tolerance limit of an ordinary human being.

Improper illumination in schools, colleges, factories, roads, etc., is also fast becoming a hazard to efficiency, safety and health. The eye sight of the students or workers may be adversely affected if the illumination in schools, colleges and factories is not maintained at the appropriate level. The efficiency and safety in factories would largely depend on the adequacy of the illumination provided for the various jobs. Improper illumination of roads may lead to serious accidents. It is, therefore, necessary to measure and control the extent of illumination with a view to ensuring that the level of illumination is proper and adequate.

Besides the above mentioned hazards, other hazards may also arise if the accuracy of weights and measures is not ensured. For example, a building, bridge or other structure may collapse, causing death or disaster, if the building materials are not mixed in proper proportions or if the load bearing capacity or the stress of the building is not accurately determined and ensured or if the capacity of the land to sustain the building is not correctly assessed before undertaking the construction. Similarly, a road, bridge, or causeway is likely to collapse if it is not properly constructed after taking into consideration the volume of the traffic and the resultant stresses.

Aviation may become a source of danger to passengers, cargoes and the community if there is a crash on account of the inaccuracy of any of the weighing or measuring instruments used for determining the pay load or for the regulation of the flight. For aerial combat, split-second accuracy is necessary. If such accuracy is not ensured, the bombs and other missiles fired by the combat forces may, instead of hitting the target, land on populated or other areas.

Accuracy of weights and measures and weighing and measuring instruments has also a significant role to play in other spheres of human endeavour. Art, architecture, astronomy, education, electronics, tele-communications, telegraphy and every other branch of science and technology are dependent on the accuracy of weighing and measuring instruments.

It was the accuracy of the weighing and measuring instruments which helped scientists to land man on the Moon, the fulfilment of a dream cherished by man for ages. A slight error in measuring distance or calculating other parameters of space flights would have not only resulted in the missing of the target by millions of kilometres but might have led to disastrous consequences.

Tele-communication frequencies, if not accurately measured, may upset the channels of communication and may thereby affect every human activity, including a voyage into the space.

A faulty speedometer in a vehicle or an error in determining the distance between two objects may lead to accidents. Similarly, a faulty pressure gauge on a boiler, gas cylinder or other device may cause serious damage to life and property.

The safety and security of the country and its population depend on the efficiency of its Armed Forces. These Forces cannot perform their duties efficiently unless the arms, ammunitions and equipments used by them are manufactured with utmost precision.

In India, a programme of science education at the school and college levels has been launched. The number of students who attend science classes has increased phenomenally after the Independence of the country. A prerequisite of science education is the production and supply of accurate and reliable equipments, such as, balances, weights and measures, measuring devices and other apparatus. For example, the sheet metal milligram weights, which are required by every student of science should be so accurate as to give the correct results. But experience shows that the students usually go in for the cheapest weights available in the market. On a scrutiny of such weights, the National Physical Laboratory,

New Delhi, found that such cheap weights are not generally accurate and that weights purporting to be 500 milligrams varied between 400 and 600 milligrams. Other sheet metal weights were also found by the NPL to vary similarly. Even the most brilliant students would fail miserably in an examination if such inaccurate weights are used by them.

The balances and other apparatus used by students should also be accurate. Unfortunately, most of the schools and colleges were found to have purchased the cheapest varieties available in the market, with the result that such balances or other apparatus gave satisfactory performance for some time but they developed defects shortly thereafter. The use of inaccurate balances and other apparatus by the students would adversely affect their education.

Similar considerations apply in equal measure to every piece of measuring instrument used in the school or college laboratories. It was in this context that the Conference on Application of Science and Technology to the Development of Asia held by the UNESCO in New Delhi in August, 1968, stressed the need for reliable instruments in imparting science education. If science education is to progress on satisfactory lines, it is essential that the equipments used by the students should be subjected by law to periodical checks with regard to their accuracy and performance.

In industrial production, it is the accuracy of each part of the machinery and of each measuring instrument or gauge which controls the entire chain of production. Hence, if the different parts of the machinery are not manufactured with precision by reason of any inaccuracy in the measuring instruments or the gauges, the wheels of industry would come to a grinding halt. For example, we may refer to the statement of Prof. Vieweg¹ who said "that length measurements are very important in all engineering workshops and industrial production. Take the automobile engine. In the early stages of this invention, five decades ago, the difference in diameter between a cylinder and a piston was about tenth of a millimetre or even more. Today, it is taken for granted that a few micrometres or even less can be guaranteed. Therefore, tools are needed which are capable of imparting a finish accurate to about one micrometre and a Superintendent of the manufacturing concern must have a calibration unit with an accuracy of at least a few tenths of one micrometre. Don't you agree that the fundamental block gauge must be measured even more exactly? This also applies to cylinders, screws and gear, and tools and all the so-called industrial measuring devices. And remember, with all these advances the ultimate in refinement is not yet in sight."

Mass production is the base of modern industry. Mass production has given rise to the need to control accurately the dimensions of products so as to ensure the interchangeability of parts or components of machinery. In the modern industrial field, parts and components of machinery are produced in factories situated at considerable distances apart. These are often assembled in an altogether different factory to give the end product. Accuracy of measurement of dimensions of such parts and components is necessary so that each part and component may be interchangeable. The accuracies of the measurements of the dimensions should be traceable to the appropriate national, and through them, to the appropriate international standards of weights and measures. Once such uniform system of units and standards of weights and measures has been established for the purpose of measurements, a firm base is laid for the interchange of goods and services in the mass markets of modern commerce, of machines, parts, components and devices in industry and of scientific and technical information. This system makes it possible for any plant to mass produce machines, materials, parts, components or devices that are interchangeable with those made in plants in other parts of the country. Without this basis for interchangeability, the modern industrial economy could not exist.

Modern industrial economy is largely dependent on the control of measurements of dimensions of machines, parts, components and devices exercised by laboratories established for the purpose. If results obtained in one laboratory have to be useful in another, they must be expressed in accordance with a system of weights and measures common to both the laboratories, otherwise, each laboratory would have to operate on its own and confusion would result when they attempt to exchange information.

Mass production of machines, parts or components carries with it an implied guarantee to the effect that such machinery, parts or components produced in other plants in the country or in other countries, would fit together to give the ultimate product.

¹A former President of the Physikalisch Technische Bundesanstalt of the Federal Republic of Germany.

In view of the need to ensure the accuracies of the dimensions of each machinery, component, part or device, in terms of the national as well as international standards of weights and measures, the control, by law, of such accuracies of measurements in industrial production has become an urgent necessity.

The increase in agricultural production, now-a-days, depends on the sufficiency of the inputs. But to get the maximum benefits out of the inputs, it is necessary to determine, after a chemical examination of the soil, the quantity and the nature of the input which are needed. The accuracy of measurements, therefore, plays a vital role in the field of agricultural production as well.

The Committee observed, with regret, that the common man is generally under the impression that weights and measures have only a minor role to play and that too only in the limited field of trade and commerce and that small inaccuracies in the weights and measures may be conveniently overlooked without any detriment to the consumer or to the community.

It will be seen from the few examples given above, that the said impression is entirely erroneous. Trade or commerce is but one of the many fields in which weights and measures have an important role to play. The statistical data given in Appendix 'C' to this Report would show that in the field of retail and wholesale trade in commodities, an error of just one per cent. (which is very difficult to detect) in the weight or measure or weighing or measuring instrument may lead to a loss, to the mass of consumers, to the extent of rupees 160 crores per year and to the mass of farmers, to a further loss of rupees 140 crores per year, i.e., to a loss of rupees 1500 crores to the mass consumers and farmers during a period of five years.

It is difficult to detect visually an error of one per cent. which may be caused, even when a verified weight or measure is used, by the manipulation of the weighing or measuring instrument.

The extent of error in an unverified weight or measure or weighing or measuring instrument usually exceeds five per cent. If such unverified weight or measure or weighing or measuring instrument is used in any transaction, it may cause, during a period of five years, a loss of not less than rupees 7500 crores to the mass of consumers and farmers and a corresponding wrongful gain to a handful of traders and middlemen. This would indicate how the mass of farmers and other weaker sections of the society may be exploited by unscrupulous traders or middlemen by the manipulation of weights or measures or weighing or measuring instruments, unless a rigorous control is exercised over the accuracy and performance of weights or measures and weighing or measuring instruments.

Even affluent persons may not escape from pecuniary loss by means of inaccurate weights and measures. For example, an inaccurate taximeter may prove to be a source of pecuniary loss to the hirer. Similarly, an inaccurate electricity, gas or water meter or petrol pump may cause recurring financial loss to the consumer.

A labourer who is paid wages or bonus for his labour on the basis of weight or measure or any commodity produced or carried by him or for any service rendered by him, may have to incur substantial loss of wages if the weight or measure employed for the determination of his wages is inaccurate.

It will be seen from the statistical data given in Appendix C that for every one per cent loss due to inaccuracy of any weight or measure or other malpractice, the annual loss which may be occasioned to agricultural labourers would extend to rupees 6 crores. Similarly, the annual loss in the wages to coal miners and plantation labourers (whose wages are related to the weight or volume of the commodity handled by them) would extend to rupees 2 crores.

Inaccurate weight or measure may also cause the Government a substantial loss of revenue. The statistical data given in Appendix 'C' would show that the total collection by weight or measure of customs and excise duties and octroi and royalties, amounts to rupees 3000 crores per year. For every one per cent. of loss due to inaccuracy of weight or measure, the loss to the Government would thus be about rupees 30 crores per year.

The collection of postal charges is made, in most cases, on the basis of weight. The post offices are situated at every nook and corner of our vast country. The number of weights or measures or weighing or measuring instruments used in the post offices would, therefore, be considerable. If some of these weights or measures or weighing or measuring instruments are inaccurate, such inaccuracy may cause an enormous loss of postal revenue. Similarly, any deficiency in any weight or measure or weighing or measuring instrument used by the Railways throughout the length and breadth of the country may cause a substantial loss of earnings derived by the Railways from freight. Duties of excise are levied both by the Centre and by the States on many commodities on the basis of weight or measure. Hence, any deficiency in the weight or measure or weighing or measuring instrument may cause a substantial loss of excise revenues. Similarly, taxes or other local impositions on articles, when levied by weight or measure, may also suffer in the event of there being any deficiency in the weight or measure or weighing or measuring instrument used for the determination of the quantum of the levy.

The instances indicated in this Chapter would clearly establish the need for exercising a rigorous control over the weights and measures and weighing and measuring instruments and the techniques of their use because such control alone can establish assurances of accuracy, performance and reliability. Such need is greater in a developing country like India where the progress made by developed countries in centuries is sought to be achieved in decades. The existing law with regard to weights and measures, therefore, requires a thorough overhaul. The Committee has sought to overhaul the law in such a way as to ensure that it may not only fit in with the current thinking in the OIML but may also stand a fair comparison with similar laws in force in the developed countries. To achieve this object, the Committee has specified that a pyramid of standards of weights and measures of higher and higher accuracy should be built up in such a way that any weighing or measurement made in this country may be so accurate as to be internationally acceptable.

The law envisaged by the Committee does not provide for the regulation of the pollution of air, water or land; nor does it provide for the control of noise or any other matter referred to in this Chapter by way of illustration. The purpose of this Chapter is to indicate, by a few illustrations, the vastness of the field in which weights and measures have a significant role to play. When, however, any law is made for the regulation of the pollution of air, water or land or for the control of noise or for any other related matter, such law will have to provide for the determination of the extent of the pollution, noise or the hazards illustrated in this Chapter. Such determination cannot be made except through a measuring instrument or device. The verification of the accuracy and assessment of the performance of such measuring instrument or device would fall within the realm of legal metrology. The law, when enacted, will have, therefore, to provide for a machinery for the verification of the accuracy and assessment of the performance of such measuring instrument or device. The Committee, therefore, feels that such machinery, when constituted, should appropriately form a part of the Department of Legal Metrology, the constitution of which has been recommended by the Committee in Chapter VII of this Report.

The law envisaged by the Committee would be very largely in line with the policy of Government in regard to science and technology as enunciated by the President in his address to Parliament on the 23rd March, 1971, in which he had said—

“My Government intends to draw up and execute a National Plan for the application of Science and Technology to development. This plan will be intimately related to and indeed largely derived from our socio-economic plan. An important feature of such a plan will be the preparation of detailed programmes in a few high priority areas of national endeavour in which science and technology play an important part.

My Government are anxious that rapid economic development should not lead to the pollution of air, water or soil. There should be rational management of our natural resources taking care not to upset ecological balance in nature.”

Legal metrology, in effect, is nothing but the systematic application of the basic tenets of science and technology which serve the various sectors of economy and constitutes an integral part of the process of development. The Committee hopes that in view of its wide ramifications, legal metrology will be assigned an important place in the high priority areas of national endeavour and in the Plans.

CHAPTER III

CONSTITUTIONAL POSITION

India, being a Union of States, the legislative powers are shared between the Union and the States. The matters in relation to which legislation may be made are enumerated in the three Lists specified in the Seventh Schedule to the Constitution. List I is known as the Union List, List II as the State List, and List III as the Concurrent List. Parliament has exclusive power to legislate on any matter on the Union List; the Legislatures of the States have exclusive powers to legislate on any matter on the State List. (Parliament has, however, power to legislate on any matter in the State List in certain contingencies.) Both Parliament and the Legislatures of the States have concurrent powers of legislation with regard to any matter on the Concurrent List, but Parliamentary legislation with regard to any matter on the Concurrent List would override the State legislation on the same matter unless such State legislation had been reserved for the consideration of the President and had received his assent. In such cases, the State legislation would prevail in the State until it is amended or repealed by Parliament.

The legislative power with regard to weights and measures has been divided between the Union and the States. Parliament has been empowered to establish the standards of weights and measures (*vide* entry 50 of the Union List). The implementation of the standards of weights and measures, established by Parliament, has, however, been left to the Legislatures of the States (*vide* entry 29 of the State List). Parliament has, therefore, established the standards of weights and measures by the Standards of Weights and Measures Act, 1956, and the Legislatures of different States have enacted legislations for the implementation of the standards of weights and measures as established by the said Act of Parliament.

Parliament has exclusive power to legislate for the implementation of the decisions taken at international conferences in which India had participated and for the implementation of treaties and conventions with foreign countries (*vide* article 253 and entries 13 and 14 of the Union List). India, being a signatory to the two international Conventions which have a direct bearing on the field of weights and measures, namely, the Metre Convention and the Convention establishing the International Organisation of Legal Metrology¹, is under an obligation to give effect to the decisions taken under the said Conventions. Parliament alone is competent to legislate for the purpose of giving effect to the decisions taken under the said international Conventions.

Inter-State trade and commerce being on the Union List (*vide* entry 42), Parliament has exclusive competence to legislate with regard to inter-State trade and commerce in weights and measures as also in other goods which are sold or distributed by weight or measure.

Under the Union List, Parliament has also exclusive power to legislate with regard to—

- (i) Union agencies and institutions for professional, vocational and technical training (entry 65);
- (ii) offences against laws with respect to any of the matters in the Union List (entry 93);
- (iii) inquiries, surveys and statistics for the purpose of any of the matters enumerated in the Union List (entry 94); and
- (iv) fees in respect of any of the matters on the Union List but not including fees taken in any Court (entry 96).

¹For details, please see Chapter IV.

Establishment of the standards of weights and measures being a matter on the Union List, Parliament has, therefore, power under the said entries to provide for—

- (i) establishment of a Central Training Institute for imparting training in legal metrology to officers and other persons;
- (ii) penalties for the contravention of any provision of the law made by it in relation to matters falling in the Union List;
- (iii) survey and collection of statistics in relation to matters specified by or under the Central law;
- (iv) levy of fees in relation to matters included in the Central law.

Under the State List, the State Legislature has power to provide for trade and commerce within the State (entry 26, subject to entry 33 of the Concurrent List) as also the imposition of penalties for the contravention of any law made by it (entry 64) and levy of fees in relation to matters included in the State List (entry 66).

Each entry in the Lists enumerated in the Seventh Schedule to the Constitution delineates a separate field of legislation and includes such incidental, consequential or ancillary matters as may be necessary to provide in the legislation; but legislation under one entry should not encroach into another entry unless such encroachment is incidental and not substantial.

While under entry 50 of the Union List, Parliament has exclusive power to provide for the establishment of standards of weights and measures, it has, under entry 51 of that List, exclusive power to provide for the establishment of standards of quality for goods to be exported out of India or transported from one State to another. It will be seen that the words "establishment of standards" are common to both these entries but the standards referred to in these two entries relate to different matters in that while the standards referred to in entry 50 relate to weights and measures, the standards referred to in entry 51 relate to quantity for goods to be exported out of India or transported from one State to another. The Constitution thus makes it clear that while entry 50 is relatable to the standards of weights and measures, entry 51 is relatable only to the standards of quality for the goods referred to therein. In pursuance of the said two entries, two different Acts have been enacted by Parliament, namely, the Standards of Weights and Measures Act, 1956, and the Indian Standards Institution (Certification Marks) Act, 1952. Under these two Acts, two separate organisations have been established for the implementation of the provisions of the respective Acts. It is obvious from the Constitution itself, as also from the two separate Parliamentary legislations, that these two organisations are expected to function within their respective fields, which are distinct and separate, and the one is not expected to encroach into the field of the other. The international practice also lends supports to this conclusion.

In the international field, there are two separate organisations for the purposes for which the two above-mentioned Acts have been passed in India, namely, the International Organisation for Standardisation (ISO) and the International Organisation of Legal Metrology (OIML). The ISO does not function in the field where OIML operates. Similarly, OIML does not function in the field where the ISO operates.

The existence of two separate entries in the Constitution and the two separate Parliamentary legislations envisaging the establishment of two separate organisations clearly indicates that the intention is that the two organisations contemplated by the two separate legislations should function separately and that one organisation should not encroach into the field of the other.

CHAPTER IV

INTERNATIONAL CONVENTIONS AND INTERNATIONAL ORGANISATIONS

Legal Metrology: What It Means

In this Report, references have been made to the expression "legal metrology". It is, therefore, necessary to explain what is legal metrology.

The field of knowledge relating to measurements is known as metrology, which embraces all the theoretical as well as practical problems in relation to measurements, whatever their nature or precision. Thus, the expression "metrology" is the genus, of which "legal metrology" is one of the species. That part of "metrology" which relates to units of weights and measures, methods of measurement and measuring instruments, and which is concerned with technical requirements and statutory provisions to safeguard the public from the point of view of security and accuracy of measurement, is known as "legal metrology".

In this Report, references have also been made to the "Metre Convention" and to the "CGPM" and to the Convention establishing an International Organisation of Legal Metrology and to the "OIML". It is, therefore, necessary to give a brief background of the said Conventions and of the said international organisations and their functions.

Metre Convention

The Metre Convention is a treaty which was signed in Paris on the 20th May, 1875, by the plenipotentiaries of 17 States. Other States joined the said Convention later. At present, there are 41 adhering States, including India. The main purpose of the Metre Convention is to create uniformity in the units of weights and measures, to define them and to lay down the optimum methods of realising and applying them.

The Metre Convention envisages the calling of a General Conference of Weights and Measures (CGPM), to be attended by the delegates of all the contracting countries.

The functions of the CGPM are to discuss and initiate measures necessary for the dissemination and improvement of the metric system, and to pass upon such new fundamental metrological determinations as may have been made during the time when it was not in session. It receives the report of the CIPM concerning the work that has been accomplished.

The CGPM is to be convened by the International Committee of Weights and Measures (CIPM), at an interval not exceeding six years.

The Metre Convention envisages the establishment of an International Bureau of Weights and Measures (BIPM). The operation of the BIPM is under the exclusive direction and supervision of the CIPM, and the CIPM is under the control of the CGPM. The CGPM is thus the apex policy-making body.

The functions of the CIPM are to direct all the metrological work that the member-countries shall decide to have carried on jointly and to see to the conservation of the international prototypes and standards and institute the co-operation of specialists in questions of metrology and co-ordinate the results of their work.

While the responsibility of the CIPM is to implement the policies formulated, from time to time, by the CGPM, the responsibilities of the BIPM are:—

First: Comparison and verification of the new prototypes of the metre and kilogram.

Second: Custody of the International prototypes.

Third: Periodical comparison of the national standards with the international prototypes and with the test copies, as well as comparison of the standard thermometres.

Fourth: Comparison of the prototypes with the fundamental standards of non-metrical weights and measures used in different countries for scientific purposes.

Fifth: Sealing and comparison of geodesic measuring bars.

Sixth: Comparison of standards of scales of precision, the verification of which may be requested by Governments or scientific societies, or even by constructors or men of science.

After the CIPM has proceeded with the work of co-ordinating the measures relative to electric units and when the CGPM has so decided by a unanimous vote, the BIPM has the charge of the establishment and keeping of the standards of the electric units and their test copies and also of comparing with those standards, the national or other standards of precision.

The BIPM is also charged with the duty of making the determinations relative to physical constants, a more accurate knowledge of which may be useful in increasing precision and further ensuring uniformity in the fields to which the above-mentioned units belong.

It is also finally charged with the duty of co-ordinating similar determinations effected in other institutions.

International Organisation of Legal Metrology (OIML)

Subsequent to the Metre Convention, a convention was signed on the 12th October, 1955, for the establishment of an International Organisation of Legal Metrology (OIML). India is a signatory to the Convention under which OIML has been established.

The OIML consists of three separate organisations, namely: —

- (i) International Conference on Legal Metrology;
- (ii) International Committee on Legal Metrology (CML), which is the working body of the International Conference on Legal Metrology; and
- (iii) International Bureau of Legal Metrology (BML), which is responsible for the operation of the International Conference on Legal Metrology and the OIML.

All countries, which are parties to the OIML Convention are the members of the International Committee on Legal Metrology.

Under article VIII of the OIML Convention, India is under a moral obligation to implement, as far as possible, the recommendations made by the OIML in accordance with the procedure laid down in that article.

The objects of the OIML are: —

1. To set up a documentation and information centre:

on the one hand, on the different national departments concerned with the inspection and checking of measuring instruments subject, or liable to be subject, to legal regulation;

on the other hand, on the aforesaid measuring instruments considered from the point of view of their conception, construction and use.

2. To translate and to edit the texts of legal requirements for measuring instruments and their use in force in the different States, with all the interpretations stemming from the constitutional and administrative law of those States which are necessary to the complete understanding of these requirements.

3. To determine the general principles of legal metrology.

4. To study, with a view to unification of methods and regulations, the problems of legal metrology, of a legislative and regulatory character, the solution of which is of international interest.
5. To establish model draft laws and regulations for measuring instruments and their use.
6. To draw up a practical organisational draft plan for a model service for the inspection and checking of measuring instruments.
7. To determine necessary and adequate characteristics and standards to which measuring instruments must conform in order for them to be approved by the member States and for their use to be recommended internationally.
8. To promote closer relations between the departments of weights and measures or other departments responsible for legal metrology in each of the member States of the Organisation.

While the CGPM lays down the policies with regard to the units of weights and measures, the application, by law, of those units to the entire field of weighing and measurement is the responsibility of the OIML.

The technical work of the OIML is carried out through nearly 70 Working Groups. A list of these Working Groups and the extent of India's participation in those Working Groups is given in Appendix 'D'. The secretariats of these Working Groups are distributed among the member States of the OIML. India is the only developing country which holds the secretariat of one such Working Group, namely, A. 5 (equipment used in legal metrology offices).



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CHAPTER V

REVISION OF THE CENTRAL LAW

In view of the adoption, by the CGPM and the OIML, of the SI units, the standards of weights and measures which were established by the 1956-Act have become obsolete. For example, the primary units of area, capacity and volume, which were established by the 1956-Act, have not been included in the base units specified under the SI; they have been specified, under the SI, as derived units. Similarly, the unit of length in navigation by sea or air, namely, the nautical mile, established by the 1956-Act, has now become a special unit outside the SI. Out of the other primary units established by the 1956-Act, substantial refinements have been made by the SI with regard to the base units of time, luminous intensity and thermodynamic temperature. A new unit, namely, the "mole" as the base unit of amount of substance has been added to the SI.

Under the SI, the units of weights and measures have been divided into three categories, namely, (i) base units, (ii) supplementary units, and (iii) derived units. This scheme of division of the units of weights and measures into three categories, does not exist in the 1956-Act. The use of certain other units outside the SI has been permitted by the CGPM; most of these units are not also included in the standards established by or under the 1956-Act. In view of the very substantial modifications of the international units of weights and measures, on which the 1956-Act was based, the substitution of that Act by a new legislation, incorporating the SI and other units, has become an urgent necessity. In consideration of such a necessity, the OIML has prepared the draft of a legislation, giving recognition to the SI and other units, which the member-countries are expected to enact. India, being a signatory to the Convention whereby OIML was constituted, is, therefore, under an international obligation to undertake a legislation to give effect to the SI and other units of weights and measures.

The draft of the Central Bill, prepared by the Committee, which seeks to replace the 1956-Act, establishes the seven base units of the SI as the base units of weights and measures. The Central Bill also provides for the adoption of such supplementary, derived, special or other units, as may be recommended by the CGPM or the OIML from time to time, as also decimal multiples and sub-multiples of these units. The Central Bill further empowers the Central Government to add to, modify or omit, by rules, such supplementary, derived, special or other units of weights and measures and their decimal multiples and sub-multiples whenever such addition, modification or omission is recommended by the CGPM or the OIML, or both.

Base Unit of Numeration

In addition to the seven base units recommended by the CGPM, the proposed Central Bill envisages the establishment of base unit of numeration. Numeration, being a form of measurement, comes within the ambit of weights and measures and as such Parliament is competent to establish the standards of numeration. The Central Bill provides, on the analogy of the provisions of article 343(1) of the Constitution of India, that the base unit of numeration shall be the unit of the international form of Indian numerals and that every numeration shall be made in accordance with the decimal system.

Although India was the originator of the decimal system of numeration, which has been accepted by most of the countries of the world, unfortunately it is not being followed in India. As a result, there has been in use, in India, a multiplicity of forms of numeration, for example, dozen, gross, great gross, multiples of four, multiples of five, etc. Although there are two systems of numeration in millions and billions, namely, the British system and the American system, both the systems of numeration are being followed in India, without indicating, in either case, which of the two aforesaid systems of numeration has been followed. Under the American system, one thousand million makes a billion, but under the British system one million times of one million make a billion. If both these systems of numeration are followed in addition to the system of numeration in lakhs and crores, confusion and difficulties in trade and commerce are bound to arise. It is, therefore, very necessary to remove this confusion by establishing

a standard system of numeration. The adoption of the decimal system of numeration is also a logical corollary to the adoption, in India, of the decimal system of coinage and the metric system of weights and measures. The standardisation of the system of numeration would also make calculations easier.

Inter-State Trade and Commerce

There is no provision in the 1956-Act with regard to inter-State trade and commerce in weights or measures or in any commodity which is sold or distributed in the course of inter-State trade and commerce, by weight, measure or number. The evidence which was given before the Committee indicates that this omission has very adversely affected the freedom of inter-State trade and commerce in weights and measures and in other commodities, although such freedom of trade and commerce is guaranteed by article 301 of the Constitution of India. The evidence further indicates that the said omission in the 1956-Act has given rise to several types of malpractices. The Committee is, therefore, of opinion that restrictions on the freedom of inter-State trade and commerce in weights and measures and other commodities should be removed and such suitable provisions should be included in the Central Bill as would ensure the proper verification of the weights, measures and other commodities in relation to which any inter-State trade and commerce takes place. While Parliament is competent to legislate with regard to inter-State trade and commerce (*vide* entry 42 of the Union List), the State Legislature is competent to provide only for the regulation of trade or commerce within the State (*vide* entry 26 of the State List). The regulatory provisions with regard to the inter-State trade and commerce in weights and measures and in other commodities, which are sold by weight, measure or number, can, therefore, find a place in a Parliamentary legislation only.

One member of the Committee, however, expressed a doubt as to whether Parliament is competent to legislate with regard to inter-State trade and commerce in weights and measures because, under entry 29 of the State List, the State Legislature is competent to legislate with regard to weights and measures excepting the establishment of the standards thereof. The Chairman of the Committee explained to the member that the Central law envisaged by the Committee does not relate to any matter which is relatable to entry 29 of the State List, but to inter-State trade and commerce in weights and measures which is exclusively relatable to entry 42 of the Union List. Since the member concerned was not satisfied with the said explanation, the Chairman referred the question to the Law Secretary to the Government of India for an opinion. The Law Secretary has recorded his opinion, the relevant portion of which runs as follows:—

“Entry 29 of List II deals with weights and measures except establishment of standards. In this connection the question arises whether this entry would stand in the way of the proposed legislation.

There is nothing in entry 42 of List I to indicate that it is subject to entry 29 of List II. Whenever it is intended that an entry in one legislative List should be subject to the provisions of an entry in another legislative List, the Constitution itself contains express provisions for the purpose..... In the absence of any such provision in entry 42 of List I, it would be open to Parliament to enact the proposed legislation to regulate inter-State trade and commerce in weights and measures.”.

The controversy is thus concluded by the opinion of the Law Secretary.

Verification and stamping of weights and measures sent from one State to another

For the regulation of inter-State trade and commerce in weights and measures, the Committee proposes to divide weights and measures into two categories, namely:—

- (i) those which are not required to be dismantled before their despatch to the other State and are not likely to lose accuracy by reason of their transport from one State to another; and
- (ii) those which are required to be dismantled before their despatch to the other State and are required to be re-assembled before their use in the other State.

The Committee feels that the power to verify and stamp the weights and measures of the second category should lie exclusively with the Government of the State in which they are re-assembled and put to use. But the power to verify and stamp the weights and measures of the first category should lie with the Government of the State in which they are either manufactured or in which their movement originates. The verification and stamping made on any weight or measure of the first category in the State in which it is manufactured or in which its movement originates should be, normally, acceptable to all the State Governments so that trade and commerce in weights and measures of the first category may be free throughout the territory of India, as envisaged by article 301 of the Constitution. Care has, however, been taken to ensure that there may not be any confusion between the weights and measures of the first category which are intended to be used for trade and commerce within the State and those which are intended for inter-State trade and commerce. It has, therefore, been provided that the weights and measures of the first category which are intended for inter-State trade and commerce should be stamped with a special stamp by the Government of the State in which they are manufactured or in which their movement originates. With a view to ensuring the uniformity of such stamp, power is proposed to be given to the Central Government to lay down the specifications of such special stamp. A weight or measure bearing a special stamp may, however, be used in the State in which such special stamp is made on it.

A weight or measure of the first category bearing the special stamp made in a State would not normally be required to be verified and stamped in any other State until its re-verification has become due by efflux of time. The period of re-verification will, however, be computed from the date of sale or delivery thereof to the consumer.

Provision has, however, been made for the verification and stamping of any weight or measure of the first category where the authority in the receiving State has any reason to believe that such weight or measure has, in the course of transit, lost its accuracy. In such a case, verification and stamping of the weight or measure of the first category may be made, for reasons to be recorded in writing and communicated to the Controller of the State in which the special stamp was made. When such verification and stamping is made in the receiving State, the special stamp which was made thereon should be obliterated and no fee, should be charged in the receiving State for such verification and stamping and for the obliteration of the special stamp. Re-verification fees could, however, be charged in the receiving State when such re-verification becomes due by efflux of time.

In order to ensure the freedom of movement of weights and measures of the first category from one State to another, it is necessary to provide that the fees for verification and stamping of such weights and measures should be uniform. The rules should, therefore, provide for a uniform scale of fees, depending on the extra work involved in ensuring the accuracy of the weight or measure. With a view to ensuring that the income derived, at present, by the State Governments from the fees for verification and stamping of weights and measures may not suffer, it would be necessary to so fix such verification and stamping fees as to ensure that there is no over-all loss of income to the State Governments.

Some members of the Committee expressed an apprehension that the scheme with regard to the verification and stamping of weights and measures of the first category may lead to a loss of income to the receiving State. The Committee felt that such loss of income may be very easily offset by slightly increasing the fee for re-verification of all the weights and measures in use in the receiving State.

A further question was raised as to whether the slight increase in the re-verification fees would not have the effect of increasing the burden on the consumer. The acceptance of a weight or measure of the first category, if stamped in the State of manufacture, throughout the territory of India would remove the need of the manufacturer, etc., to appoint agents in different States and would also enable him to save the expenditure which he would have had to incur, but for these provisions, to take back the rejected weights and measures. The savings thus made by the manufacturer are likely to be reflected in the price of the weights and measures and consequently a slight increase in the fees for re-verification is not likely to cause an overall increase in the liability of the consumer.

The Committee found that in most of the States the total income derived from fees for verification and stamping of weights and measures exceeds the amount spent by the State Government for the maintenance of the organisation for the verification and stamping of weights and measures. But instead of spending the excess income for the development and expansion of the said organisation, the amount representing such excess income is being credited to the general revenues of the State. The Committee would like to point out, most humbly, to the State Governments that according to the decisions of the Supreme Court this practice is contrary to law. The Supreme Court has repeatedly pointed out that there is a difference between a tax and a fee; while a tax is required to be merged into the Consolidated Fund, a fee should be earmarked and set apart for the performance of the service for which it is levied and it should not be merged in the Consolidated Fund.

According to the decision of the Supreme Court in *Commissioner, Hindu Religious Endowments, Madras vs. Lakshmindra Thirtha Swamiar*¹, "a fee is generally defined to be a charge for a special service rendered to individuals by some governmental agency. The amount of fee levied is supposed to be based on the expenses incurred by the Government in rendering the service, though, in many cases, the costs are arbitrarily assessed The distinction between a tax and a fee lies primarily in the fact that a tax is levied as a part of a common burden, while a fee is a payment for a special benefit or privilege. Fees confer a special capacity, although the special advantage, as for example, in the case of registration fees for documents or marriage licences, is secondary to the primary motive of regulation in the public interest. Public interest seems to be at the basis of all impositions, but in a fee it is some special benefit which the individual receives..... It is absolutely necessary that the levy of fees should, on the face of the legislative provision, be co-related to the expenses incurred by Government in rendering the service..... ordinarily there are two classes of cases where Government imposes 'fees' upon persons. In the first class of cases, Government simply grants a permission or privilege to a person to do something, which otherwise that person would not be competent to do and extracts fees, either heavy or moderate, from that person in return for the privilege that is conferred. In such cases, the tax element is predominant. And if the money paid by licence-holders goes for the upkeep of roads and other matters of general public utility, the licence fee cannot but be regarded as a tax. In the other class of cases, the Government does some positive work for the benefit of persons and the money is taken as the return for the work done or the services rendered. If the money thus paid is set apart and appropriated specifically for the performance of such work and is not merged in the public revenues for the benefit of the general public it could be counted as fees and not as a tax."

According to the decision of the Supreme Court in *Mahant Shri Jagannath Ramanuj Das vs. State of Orissa*² (in which the principles laid down in the first-mentioned case were reiterated), "our Constitution, however, has made a distinction between a tax and a fee for legislative purposes..... A tax is undoubtedly in the nature of a compulsory exaction of money by a public authority for public purposes, the payment of which is enforced by law. But the essential thing in a tax is that the imposition is made for public purposes to meet the general expenses of the State without reference to any special benefit to be conferred upon the payers of the tax. The taxes collected are all merged in the general revenue of the State to be applied for general public purposes. Thus, tax is a common burden and the only return which the taxpayer gets is the participation in the common benefits of the State. Fees, on the other hand, are payments primarily in the public interest but for some special service rendered or some special work done for the benefit of those from whom payments are demanded. Thus in fees there is always an element of quid pro quo, which is absent in a tax. Two elements are thus essential in order that a payment may be regarded as a fee. In the first place, it must be levied in consideration of certain services which the individuals accepted either willingly or unwillingly. But this by itself is not enough to make the imposition a fee, if the payments demanded for rendering of such services are not set apart or specifically appropriated for that purpose but are merged in the general revenues of the State to be spent for general public purposes."

The above view was further explained by the Supreme Court in *Hingir-Rampur Coal Co. vs. State of Orissa*³, where it held "whereas a tax is imposed for public purposes and

¹AIR (1954) SC 282, at pp. 295-296.

²(1954) SCA 569, at p. 575.

³AIR (1961) SC 459, at p. 464

is not, and need not be supported by any consideration of services rendered, a fee is levied essentially for services rendered, and as such there is an element of *quid pro quo* between the person who pays the fee and the public authority which imposes it..... Tax recovered by the public authority invariably goes into the Consolidated Fund which ultimately is utilised for all public purposes, whereas a cess levied by way of fee is not intended to be, and does not become, a part of the Consolidated Fund. It is earmarked and set apart for the purposes of services for which it is levied..... In regard to fees, there is, and must always be, co-relation between the fee collected and the service intended to be rendered..... Cases may arise where under the guise of levying a fee, the Legislature may attempt to impose a tax; and in the case of such a colourable exercise of legislative power, courts would have to scrutinize the scheme of the levy very carefully and determine whether, in fact, there is a co-relation between the service and the levy or whether the levy is either not co-related with the service or is levied to such an excessive extent as to be a pretence of a fee and not a fee in reality. In other words, whether or not a particular cess levied by a statute amounts to a fee or tax, would always be a question of fact to be determined in the circumstances of each case. The distinction between a tax and a fee is, however, important, and it is recognized by the Constitution.”.

The principles laid down by the Supreme Court in the above-mentioned cases were reaffirmed by that Court in a very recent case, namely, *Indian Mica and Micanite Industries vs. State of Bihar*¹. It was held in that case that the “power of any legislature to levy fee is conditioned by the fact that it must be, by and large, a *quid pro quo* for the service rendered. If a levy purporting to be a fee is found to be an exaction without doing any service or if it is found that the levy is wholly disproportionate to the service rendered, then the levy becomes invalid.”².

After reviewing the decisions given by the Supreme Court in the earlier cases, the Supreme Court held in the said case that “it is clear that before any levy is upheld as a fee it must be shown that the levy has reasonable co-relationship with the service rendered by the Government. In other words, the levy must be proved to be a *quid pro quo* for the service rendered. But in these matters, it will be impossible to have an exact co-relationship. The co-relationship expected is one of a general character and not as of arithmetical exactitude.”³.

In view of the repeated decisions of the Supreme Court on the point, the Committee would like to emphasize that where the income derived from the fee collected for verification and stamping of weights and measures is in excess of the expenditure incurred for the maintenance of the organisation for the enforcement of the law relating to weights and measures, such excess income should either be earmarked and separated for the development and expansion of such organisation or the scales of fees should be so reduced that the benefit of such reduction may be derived by the consumers; but in no case should such excess income be merged in the general revenues of the State.

Commodities in packaged form

With the rapid modernisation of trade and industry all over the world, the off-take of packaged commodities has received an impetus because of the ease with which they can be transported and marketed. That is why, OIML has recommended the regulation of the indication of the net weight or measure of a commodity contained in a package. All the advanced countries have already enacted legislations regulating trade and commerce in packaged commodities.

Trade and commerce in commodities packed in one State is not generally confined to that State but extends beyond its frontiers. Accordingly, inter-State trade and commerce in packaged commodities falls within the ambit of entry 42 of the Union List and as such Parliament is competent to regulate such trade and commerce. Where, however, any commodity packed in any State is not sold or distributed outside that State, trade and commerce in such packaged commodity would be regulated by the law made by the Legislature of that State.

¹ AIR (1971) SC 1182.

² AIR (1971) SC 1182, at p. 1184.

³ AIR (1971) SC 1182, at p. 1186.

When any commodity, which is sold by weight or measure, is put in a package, it becomes difficult for the purchaser to ascertain the weight or measure of the net contents of the package because he has no means to weigh or measure such contents unless he has opened the package or adopted other means to ascertain the net contents. The size of the package does not always give a correct idea as to the net weight or measure of the contents thereof. Unless the weight or measure of the net contents of a package are accurately and prominently stated thereon, such omission may deprive the consumer of the opportunity of making any assessment as to the comparative advantages or disadvantages of purchasing a particular package. It is, therefore, necessary to ensure that the weight or measure of the net contents of a package are clearly and legibly stated on every package.

The Committee has noticed that, in some cases, even where the weight or measure of the net contents of a package has been stated thereon, it has been stated in such a place or in such small letters and figures and in such a way as not to attract the attention of the consumer. The Committee has also noticed that in some cases indications of the weight or measure of the net contents on packages have been qualified by certain expressions like "when packed", "gross weight", "net weight of the package", etc., which deprive the customer of the knowledge as to the weight or measure of the net contents of the package at the time of his purchase.

There is also a practice of packaging commodities in quantities which correspond to seers, pounds, ounces, gallons, etc., for example, the net weight or measure is shown as 930 g (which corresponds to 1 seer), 454 g (which corresponds to 1 lb), 112 ml (which corresponds to 4 ozs) or 4.5 litres (which corresponds to 1 gallon). Since seer, gallon, pounds, ounce, etc., are no longer valid units of weight or measure in India, the practice of packaging commodities in accordance with such units of weight or measure is undesirable because it not only keeps alive the units which have been abolished but also leads to difficulties in the computation and comparison of prices.

In order to simplify the calculations and comparison of prices, it is desirable that commodities should be packed in round quantities, such as, 100 ml, 500 g, 50m, etc.

There is also a need for uniformity in the packaging of the same or similar commodities. The Committee has found that often the same commodity is packed in a large variety of sizes. This practice results in confusing the consumer as to the economics of his purchase by depriving him of the facilities of comparison of the prices of packages containing the same commodity of equal weight or measure. The proliferation of net weight or measure, which is detrimental to the consumer, requires regulation in such a way as to ensure that the more commonly used commodities are packed in sizes of uniform denominations.

There are instances where commodities in packaged form are sold with the indication of the number of servings without disclosing the weight or measure of each such serving. In order to protect the consumer, it has been provided in the law envisaged by the Committee that the net weight or measure of each such serving should be indicated on the package.

There are certain commodities which undergo change in weight or measure, by reason of the loss of moisture or by reason of other natural causes, during the period intervening between the date of packaging and the date of sale. In such cases, it is necessary that before packing any such commodity, due account should be taken of such losses. Rules will have, therefore, to be framed for specifying the extent of such losses. The net weight or measure of a commodity should be stated on the package at the time of packaging in accordance with such rules so that neither the manufacturer nor the consumer may be put to any financial or other loss.

As a measure of consumer protection, it has been provided that the unit retail sale price of every commodity contained in a package should be stated on the package. It is not the intention of the Committee to provide for the control or regulation of any price. The intention is that the consumer should have the facility of comparing the unit price stated on different packages with a view to finding out which package would give him the best advantage. The units in accordance with which the retail price should be stated on the packages would be provided by rules. But broadly speaking, the intention is that where the commodity is sold by kilogram, the unit price should indicate the price per kilogram

or where the commodity is sold in units of 100 grams, the unit price should indicate the price per 100 grams, and so on. It has also been provided that in the case of any advertisement, along with the unit price of any commodity in packaged form, the net weight or measure of the commodity contained in such package should also be stated in the advertisement so that the consumer may get a clear idea as to the economics of the advertised commodity.

Instances are also not rare where the packers have, with a view to attracting customers, taken resort to deceptive packaging of commodities without disclosing adequately the net weight or measure of the commodity contained in the package. This practice is not only likely to cause loss to the consumer but is also likely to generate unfair competition. The law envisaged by the Committee seeks to put a curb on such practice.

Approval of Models

Since the standards of performance and accuracy of weights and measures manufactured in different States may vary widely, it is necessary to establish a uniformity in the standards of performance and accuracy of weights and measures manufactured in one State and used in other States. It will not be possible to ensure uniformity, unless the capacity of such weight or measure to render the expected performance and to maintain accuracy over a prolonged period of use is established after a rigorous test, before the large-scale manufacture thereof is permitted. The purpose of such a test will not be achieved unless it is done at a well-equipped laboratory. Proliferation of such laboratories is not practicable, and such proliferation would not only lead to extra expenditure but is also likely to lead to varying standards of test. It is, therefore, necessary to establish a Central laboratory so that the standards of test may be uniform. Such Central laboratory may be modelled more or less, on the lines of the Physikalisch Technische Bundesanstalt (PTB) of the Federal Republic of Germany.

The Committee feels that the insistence on the approval of the model of every weight or measure and every weighing and measuring instrument, which is intended to be sold or distributed in the course of inter-State trade and commerce, may put such a strain on the Central laboratory as to make it impossible for it to cope with the volume of the work. The Committee is, therefore, of opinion that, for the present, no model of any ordinary cast iron or brass weight, or metre or capacity measure need be submitted to the Central laboratory for approval. For the same reason, the Committee also feels that the existing models of weighing or measuring instruments, which are intended to be sold or distributed in the course of inter-State trade and commerce, need not be submitted to the Central laboratory for approval. But in case any Controller of Legal Metrology has any reason to believe that any such model requires a test by the Central laboratory, he may obtain one such instrument from the market and forward it to the Central laboratory for test. The fees for such test should be borne by the State Government employing such Controller.

In the opinion of the Committee, the model of every weight or measure, except those specified in the previous paragraph, which is proposed to be manufactured for the first time after the commencement of the proposed law should be submitted to the Central laboratory for a rigorous test of its capacity to render the expected performance and to maintain the expected accuracy over a prolonged period of use, before its large-scale manufacture is undertaken. This obligation should, however, be limited to the models of weights or measures which are intended to be sold or distributed in the course of inter-State trade and commerce. Similar obligations would arise in respect of the models of weights and measures which are intended to be used or sold exclusively within the State in which they are manufactured if so provided by the law made by the State Legislature.

The Committee also feels that where any model has been approved by the Central laboratory, the different sizes or capacities of such model, if manufactured on the same principle on which the approved model has been manufactured, need not be submitted for approval.

The system of submission of models of weights and measures for testing, as envisaged by the Committee, is practised in all the advanced countries of the world, but not in India. Such a practice has also been recommended by the OIML. In view of the recommendations made by the OIML, the Committee has included provisions in the Bill for the approval of models of weights and measures which are intended to be sold or distributed

in the course of inter-State trade and commerce. In relation to the weights and measures intended to be sold or distributed within the State in which they are manufactured, it would be open to the State Government to provide for the approval of models of such weights and measures and provisions to that effect have been included in the Model Bill for the States.

It was represented to the Committee that sometimes the materials of an approved model become non-available in India, and if this happens, the manufacturer will have no option but to close the factory unless the use of a substitute material is permitted. The Committee feels that in such a case, the manufacturer may continue the manufacture of such weight or measure with such available substitute material as may, in the opinion of the manufacturer, have the same properties as the approved material. But in such a case the manufacturer should, before commencing manufacture with such substitute material, inform the Central laboratory of his intention to do so, and send to that laboratory a sample of the substitute material for testing, and, thereafter continue the manufacture with the substitute material proposed by him. On receipt of such information and sample, the Central laboratory may, if it is of opinion, that the substitute material proposed by the manufacturer does not have the requisite properties, suggest such other material as may be, in its opinion, better than the one proposed by the manufacturer; and where such a better material has been suggested by the Central laboratory, the manufacturer should be under an obligation to use only the material suggested by the Central laboratory.

Quotations, etc., in relation to inter-State trade and commerce

The Committee has observed that contracts are being entered into, tenders called for, quotations of prices made and dimensions expressed, in a variety of standard and non-standard units of weights or measures in relation to commodities which are sold or distributed, or in relation to services rendered, in the course of inter-State trade and commerce. Since the object of the Central law is to establish common units of weight and measure throughout the territory of India, it is necessary to ensure that every such contract, tender, quotation or dimension should be entered into, called for, made or expressed in accordance with the standard units of weight or measure. Necessary provisions have, therefore, been included in the Bill.

Survey and collection of statistics

The standards of weights and measures established by or under the Central law are intended to be progressively extended to different fields of human endeavour as and when it is felt that it would be convenient to extend such standards to that field. It is, therefore, necessary to make surveys and collect statistics with a view to ascertaining whether any particular field is ripe for the extension of the standards of weights and measures established by or under the Central law. Such surveys and collection of statistics are also necessary to find out how far, and to what extent, the standards of weights and measures established by or under the Central law have been implemented in the fields to which the law has already been extended. Necessary provisions empowering such survey and collection of statistics have been included in the Central Bill.

Training

With the rapid development of the country, the use of sophisticated instruments for weighing and measuring is progressively increasing. With the advance of science and technology, such instruments are expected to become more and more sophisticated in future and the standards of accuracy of each such instrument are expected to be much higher than those of the instruments which are in use at present. With a view to ensuring that the personnel of the Department of Legal Metrology is well trained to verify any sophisticated weighing or measuring instrument, it is necessary to give them training not only in legal metrology but also in advanced science and technology. For imparting such training, it is necessary to establish a Central Training Institute which should be well-equipped to give the requisite training to the personnel of the Department of Legal Metrology, as also to other persons who may require or desire such training.

There was an Institute at Patna, run by the Government of Bihar, for imparting training to the officers of the Departments of Weights and Measures of the various State

Governments. The Institute has recently been taken over by the Central Government with a view to developing it as the Central Training Institute envisaged by the Committee. The Committee feels that the said Institute should be re-named as the Indian Institute of Legal Metrology.

The Committee understands that there is a prospect of receiving technical assistance from the Government of the Federal Republic of Germany for the development of the Central Training Institute. The Committee feels that such assistance, if received, would not only be very welcome, but would also help the Government to strengthen expeditiously the implementation of the standards of weights and measures established by or under the Central law.

Import and Export

With a view to ensuring that the provisions of the proposed law may not affect the export of any weight, measure, measuring instrument or packaged commodity to any country which has not yet accepted the metric system of weights and measures, provisions have been made in the Bill to the effect that in addition to the standard units specified by or under the proposed law, weights and measures in accordance with the units of weight or measure prevalent in the country to which the export is proposed to be made may, if so required by the person to whom the export is to be made, also be indicated on the weights, measures, measuring instruments or packages.

Similarly, in order to ensure that the provisions of the proposed law may not affect any trade or industry for which any machinery, part or component is required to be imported from any country where the metric system of weights and measures is not prevalent, provision has been made in the Bill to the effect that it will be sufficient if such machinery, etc., is accompanied by drawings, etc., in which measurements are also mentioned according to the metric system. Where, however, it is not possible to get the drawings, etc., expressed according to the metric system, the importer would be permitted to get the measurements on drawing, etc., to be expressed according to the metric system within six months from the date of import.

Penal Provisions

While the standards of weights and measures were established by the 1956-Act, no provision was made therein for punishment for the contravention of any of the standards established by or under that Act. The laws made by the Legislatures of the States to implement the standards of weights and measures established by or under the 1956-Act were confined to commercial transactions. The result was that in relation to non-commercial transactions, penal action could not be taken even where, in the course of such transactions, the standards of weights and measures established by or under the 1956-Act were contravened. This lacuna in the law has, to a large extent, prevented the successful implementation of the standards of weights and measures in the fields not covered by the State legislation. The Committee, therefore, feels that the said lacuna should be removed and provisions should be made in the Central law for punishment for the contravention of the provisions thereof. Accordingly, necessary provisions have been included in the Central Bill. Care has, however, been taken to ensure that such penal provisions do not, in any way, overlap with the penal provisions specified in the State law. The respective fields in which the two laws would operate have been made distinct and separate.

Machinery for the implementation of the Law

The responsibility for the implementation of the standards established by the Central Act lies with the State Governments. Adequate care has been taken to ensure that there is no encroachment by the Central Government on the powers of the State Government. The responsibility for the implementation of the other provisions of the Central law, however, lies on the Central Government. Hence the Central Bill, as envisaged by the Committee, has conferred certain powers on the Central Government, including the power to—

- (a) regulate the custody and maintenance of national prototypes and national standards,
- (b) specify derived, supplementary and other units of weights and measures,

- (c) regulate inter-State trade and commerce in weights, measures and other commodities,
- (d) prescribe verification fees for weights and measures which are sold or distributed in the course of inter-State trade and commerce,
- (e) ensure the implementation of legal metrology in relation to weights and measures which are exported or imported.
- (f) provide for training,
- (g) undertake survey and collection of statistics,
- (h) implement the recommendations of the CGPM and the OIML, and
- (i) participate in the meetings of the CGPM and the OIML.

In view of the fact that these powers can be exercised only by the Central Government, it is necessary to establish, at the Centre, appropriate machinery for the implementation of these provisions of the Central law. The maintenance of such machinery is also essential for co-ordinating and guiding the activities of the authorities in the different States with a view to ensuring that the implementation of standards of legal metrology is uniform in all the States. There exists, at present, a Directorate of Weights and Measures at the Centre. The Committee feels that in view of the expanded activities, as envisaged by it, it would be necessary to expand, progressively, the said Directorate, and, for the reasons stated in Chapter VII of this Report, to re-name that Directorate as the Directorate of Legal Metrology.

New Provisions

Besides including provisions with regard to the several topics indicated above, the Central Bill, as envisaged by the Committee, also includes certain provisions which do not exist in the 1956-Act. These provisions relate to the following matters, namely:—

- (a) the definitions of certain expressions, such as,—“commodity in packaged form”, “dealer”, “Director”, “export”, “false weight and measure”, “import”, “International Organisation of Legal Metrology”, “inter-State trade or commerce”, “label”, “manufacturer”, “notification”, “person”, “premises”, “reference standards”, “repairer”, “sale”, “seal”, “stamp”, “transaction”, “verification” and “weight or measure”;
- (b) over-riding effect of the law;
- (c) units of weights and measures to be based on the metric system;
- (d) base unit of numeration;
- (e) custody, maintenance, verification, etc., of national prototypes and national standards (including reference, secondary and working standards);
- (f) specification of physical characteristics, configuration, etc. of weights and measures;
- (g) specification of what constitutes standards of weights and measures;
- (h) prohibition of manufacture and use of non-standard weights or measures;
- (i) prohibition of inscriptions on weights and measures in accordance with any unit other than the standard unit;
- (j) custody and verification of standard equipment;
- (k) appointment of Director and other staff;
- (l) power of inspection;
- (m) forfeiture of false weights and measures;
- (n) appeal against orders for forfeiture of false weights and measures and orders relating to approval of models;
- (o) levy of fees for approval of models, registration of exporters and importers, appeals, etc.

CHAPTER VI

REVISION OF THE STATE LAW

Under the Constitution of India, the standards of weights and measures are required to be established by Parliament for the whole of India. The establishment of such standards, however, is not an end in itself. The very object of the establishment of such standards would be defeated if legislation made by each State Legislature is not so framed as to ensure that there is uniformity, throughout India, in the procedures for, and the manner of, implementation of such standards.

With a view to assisting the State Governments to enact a law which would usher in throughout India a uniformity in the implementation of the standards of weights and measures established by Parliament, the Committee has prepared the draft of a Model Bill. The Committee hopes that it will be possible for the State Legislatures to enact (after the enactment by Parliament of a revised law establishing the latest standards of weights and measures) a law on the lines of the said Model Bill.

As already indicated in Chapter II, there are numerous fields of human endeavour in which weights and measures play a significant role. It is not practicable to extend simultaneously the provisions of the State law to every field of human endeavour. Before bringing any field within the ambit of the law, it is necessary to ensure that all preparatory actions, such as, acquisition of the test equipment, know-how, technical literature, appointment and training of personnel, etc., have been completed and that no practical difficulty is likely to arise if the State laws were extended to that field. The Model Bill, therefore, provides for the progressive enforcement of the State law in different fields of human endeavour.

The State laws, as in force at present, are restricted to the field of commercial transactions only. But having regard to the needs of the Indian economy, international practices and the public good, the Committee feels that the State law should not be confined to the field of commercial transactions only. The Model Bill, therefore, provides that the provisions thereof should be extended, in the first instance, to the following fields, namely:—

- (i) transactions, whether commercial or non-commercial, including transactions in Government departments, trade and industry;
- (ii) industrial production, that is to say, facilitation of production of goods by ensuring that each part or component of every machinery is so accurately made or manufactured as to ensure the proper functioning of such machinery;
- (iii) protection, that is to say, accuracy of measurement for ensuring safety in all spheres; health and well-being of human beings and animals; preservation of crops and preservation of forests and other vegetation.

Household use of weights and measures not to be regulated

The Committee does not, however, envisage that the weights and measures used in the household should be submitted for periodical verification and stamping. According to the Bill, weights and measures used in "premises" would require periodical verification and stamping. The expression "premises" has been so defined by the Committee as to exclude the household. However, with a view to ensuring that the housewife is not cheated by the manufacturer by passing on to her any sub-standard, inaccurate or unreliable weight or measure, it has been provided that every weight or measure manufactured in the country should, after such manufacture, be verified and stamped before it is sold or delivered to the consumer.

Extension of the Act to the field of education

The Committee feels that the first field to which the law ought to be extended is the field of education, because, unless the younger generation acquires a knowledge of all the aspects of the SI units, including the application of such units, it would be difficult for

them when they grow up, to adjust themselves in environments, created as a result of the use of the SI units. But since neither the necessary textbooks, nor equipments, nor adequate number of teachers wellversed in all aspects of the SI units, are available in the country at the present moment, the Committee feels that it will not be possible to extend, in the immediate future, the provisions of the State law with regard to verification and stamping of weights and measures used in the field of education. But the Committee hopes that the State Governments would take such early steps as may be feasible to extend the law to the field of education because the sooner the said provisions of the State law are extended to the field of education, the better it would be for the country.

Stoppage of the practice of marking weights and measures as "Not for Trade"

As the application of the existing State laws is restricted to the field of commercial transactions, a practice has developed in the country of marking certain weights or measures with the words "Not for Trade". This is being done with a view to evading the provisions of the State law with regard to the verification and stamping of such weights and measures. Taking advantage of the said restrictions in the State law, some manufacturers have also gone to the length of manufacturing weights and measures in accordance with the non-metric units and they are evading the law in relation to such weights and measures by marking them as "Not for Trade".

Most of these weights and measures are not being manufactured in accordance with the established specifications. They are also not subject to the law relating to verification and stamping of weights and measures. In the circumstances, there is every possibility of such weights or measures being inaccurate. A person who purchases such weights or measures for household or non-trading purposes has every right to assume that such weights or measures are accurate. Such assumption would, normally, create a confidence as to the reliability and accuracy of such weights or measures; but such confidence may lead to very undesirable consequences if the weights or measures are not, in fact, accurate. Besides, the manufacturer, who manufactures such weights or measures, cannot, by simply marking them as "Not for Trade", prevent their use in trade. Since these weights or measures are not manufactured according to the specifications established by law and are not also required to be verified and stamped, they are normally cheaper than the similar weights or measures which have been manufactured and verified and stamped in accordance with the specifications established by law. The existence in the market of a cheaper weight or measure with the words "Not for Trade" inscribed, very inconspicuously, on it, tempts the unsuspecting traders to purchase such cheaper weights or measures and to use them in trade. Any person who uses any inaccurate weight or measure in trade is punishable under the law. It will not be fair to put an unsuspecting trader to the risk of a criminal prosecution by making available to him an inaccurate and unverified weight or measure.

The evidence adduced before the Committee showed that when some of the weights or measures marked with the words "Not for Trade" were verified by some Controllers for the purpose of preventing their use in commercial transactions, it was found that over 60% of them were inaccurate; and even such of them which were initially accurate, developed irreparable defects shortly after they were put into use. The evidence further showed that the rejection of such a high percentage of inaccurate and unreliable weights and measures had immediately caused a substantial decline in the demand for such weights or measures and that no dealer was willing to take out a licence for the sale or distribution of such weight or measure. This substantial decline in the demand clearly indicates that so long as these cheaper weights or measures could be used for commercial transactions, there was a demand for them, but as soon as a check on their use in commercial transactions was exercised, the demand not only fell but no dealer was also willing to accept the dealership for such weights or measures. This fact further corroborates the conclusion that the plea that there was substantial demand for the domestic use of these weights or measures is without any foundation.

The evidence further showed that inaccurate milligram weights, intended to be used by students in laboratories, are also being sold, but their sale could not be prevented because they are not being used in commercial transactions. On a physical verification of these milligram weights by the National Physical Laboratory, New Delhi it was found these weights were mostly inaccurate, for example, weights purporting to be of 500 mg were found to vary between 400 mg and 600 mg. If a student carries out his experiments

with such inaccurate weights, the disastrous consequences which may follow may easily be foreseen.

If the distinction between weights or measures "intended for trade" and "not intended for trade" is maintained, the manufacturers of other types of weights or measures may also take advantage of this distinction and may begin to manufacture weights or measures of all descriptions and mark them as "Not for Trade". In this way, the entire control over the standards of weights and measures may be set at naught. The Committee is, therefore, of the opinion that in the general interests of the public, the distinction between weights and measures intended for trade and those not intended for trade should be totally abolished.

It was represented to the Committee by a manufacturer that he will have to close his factory if the said distinction is abolished. The said manufacturer had to concede before the Committee that the weighing instruments manufactured by him do not conform to the specifications established by law. In the circumstances, the manufacturer has none but himself to thank for his predicament.

In this connection the Committee would like to recall that when the metric system was introduced in India, the manufacturers of weights or measures feared that they would have to close down their factories if they were required to manufacture weights and measures in accordance with the more stringent requirements of the metric system. But the fears of those manufacturers proved to be baseless. Their factories have not only expanded but they have been able to compete in foreign markets by exporting weights and measures manufactured in accordance with the rigorous specifications laid down under the metric system.

The Committee would, however, like to explore the possibility of laying down specifications of different types of weights and measures so that a factory which is manufacturing, at present, any non-trade type weight or measure or weighing or measuring instruments, may be in a position to so modify its products as to make it conform to the specifications established by law and may not have to close his factory.

Suitable provisions have, therefore, been included in the Central Bill, as also in the Model State Bill with a view to ensuring that the distinction between weights and measures intended for trade and those not intended for trade is abolished.

Since neither the Central law nor the State law provides for any punishment for the manufacture of any weight or measure which is not in accordance with the established standards thereof, the manufacturers who blatantly violate the law are going scot free. The Committee, therefore, feels that this loophole in the law should be plugged and both the Central and the State laws should be made so complementary to each other that they may not give any chance to a person who violates the law to go scot free.

Definitions

Since most of the expressions used in the Central Bill and the Model Bill are common, the common expressions have not been defined in the Model Bill and it has been provided therein that words and expressions used in the Model Bill and not defined therein but defined in the Central Bill, shall have the meanings respectively assigned to them in the Central Bill.

The definitions of the following expressions which have not been defined in the present State Acts (and which have not also been defined in the Central Bill), have been included in the Model Bill, namely:—

"authorised seal or stamp", "Central Act", "Controller", "counterfeit", "heap", "mint", "protection" and "standard weight or measure".

The definition of "Inspector" has been so modified as to provide that the designation "Inspector" would include a "Senior Inspector" or "Junior Inspector" or "Assistant Inspector" etc. This modification had to be made because of the practice in some of the States of designating some Inspectors as Senior Inspectors or Junior Inspectors, so that there may not be any doubt as to whether a Senior Inspector, Junior Inspector, etc., is also an 'Inspector'.

Since the Committee envisages the implementation of the standards of weights and measures in the field of "protection", a comprehensive definition of that expression has been included in the Model Bill.

The expression "industrial production" has not, however, been defined because it is a well known expression and does not require a definition.

Prevention of overlapping

The power to regulate inter-State trade and commerce in weights and measures and other commodities sold or distributed by weight, measure or number has been provided in the Central Bill. But the power to implement the said provisions has been given, in general, to the State Governments. With a view to avoiding any overlapping of powers between the Central and the State Governments, it has been further provided that the State law will not apply to the field to which the Central law applies.

Prohibition of quotations, etc.

The provisions of the Central Bill with regard to prohibition of quotations, etc., being applicable to inter-State trade and commerce, provisions similar to those in the Central Bill have been included in the Model Bill in relation to trade and commerce within the State.

Registration of users of weights and measures

Certain members of the Committee desired that the Bill should include provisions for the compulsory registration of users of weights and measures. But this proposal was not acceptable to the other members of the Committee. Those members who thought that such a provision would be helpful, felt that the existence of a register of users of weights and measures would enable them to get an approximate idea as to the number of weights and measures which would require verification and stamping and the staff and equipment which will be needed for such work. They felt that information with regard to these matters would enable the State Governments to formulate their plans for the implementation of the law relating to weights and measures. Those who opposed the proposal, were of the view that the extra staff which will be needed for keeping such registers would not be commensurate with the results which are likely to be achieved. In their view, the provision for such registration may, on the contrary, cause unnecessary harassment to the users of weights and measures.

In view of the sharp difference of opinion among its members, the Committee has prepared the draft of an optional Chapter, namely, Chapter IVA, which may be adopted by those States which may desire to include in their law such provisions. The inclusion of the provisions of this optional Chapter in the Bill would, however, need re-numbering of, and other consequential changes in, the other provisions of the Bill.

With a view to ensuring that the provisions for registration of users of weights and measures may not cause unnecessary harassment to such users, it has been provided that an application for the registration of a user of a weight or measure has to be invariably granted and that the fee which may be charged for such registration shall not, in any case, exceed one rupee.

Issue, Suspension and Cancellation of Licences

Detailed criteria for the issue of a licence for the manufacture, repair or sale of weights and measures, have been included in the Model Bill. New provisions have also been included in the Bill for the suspension or cancellation of licences. It has, however, been provided that no licence should be suspended except after giving the licensee a reasonable opportunity of being heard.

An owner has been exempted from obtaining a licence to repair any weight or measure owned by him, if he has the necessary equipments and technical competence to do so. This exemption will also be available to the owner who has technically qualified staff under his employment and has also the necessary equipments to carry out repairs. This exemption has been made, mainly, with a view to enabling large industrial establishments to get the weights and measures used by them repaired expeditiously and efficiently by their own staff.

The Committee was informed that repairers sometimes charge unconscionably high fees for the repair of any weight or measure. A suggestion was made to the Committee that the proposed law should provide for a scale of repairing charges. The Committee, however, felt that since the types of weights and measures which are used in this country are so numerous and the quality, standards and extent of repair, are so variable that it would not be practicable to specify a uniform scale of repairing charges. No provision has, therefore, been included in the Bill regulating the repairing charges.

The Committee received evidence to the effect that there had been instances where repairers had decamped with the weights and measures entrusted to them for repairs. It was, therefore, suggested to the Committee that the repairers should be required to furnish some security. A question was raised as to whether the problem may not be adequately met by the provision for the cancellation of licences. The Committee felt that cancellation of the repairer's licence would not be an adequate remedy for the evil. It has, therefore, been provided in the Model Bill that the repairers may be required to furnish the prescribed security and the amount of such security may extend to two thousand rupees. The said sum is, however, the maximum. The actual amount of security, in each case, will have to be fixed after taking into consideration the volume of the business of the repairer and the loss which may be caused to his customers in case he decamps with the weights and measures entrusted to him for repairs.

Verification and stamping of weights and measures

The State law requires that every weight or measure used, or intended to be used, in a transaction or for industrial production or for protection should be verified and stamped. That is why, it has been provided in the Model Bill that it shall be the duty of the Inspector to verify and stamp every weight or measure which is brought before him for such verification and stamping. In order to ensure that these provisions are not circumvented by people by omitting to take any weight or measure to the Inspector for verification and stamping, provisions have been made to the effect that a weight or measure which has not been verified and stamped after its verification has become due will be regarded as an unverified weight or measure.

Seizure and Forfeiture

It has been provided that where any seized goods are of a perishable nature, the Inspector may dispose of such goods in the prescribed manner.

Provisions have also been made for the forfeiture of false or unverified weights and measures.

Packaged commodities

Provisions of the Central Bill in relation to packaged commodities which are sold or distributed in the course of inter-State trade and commerce, have been made applicable to the packaged commodities which are sold or distributed in the course of trade and commerce within the State. With a view to ensuring that the manufacturers or packers do not deceive the customers by mentioning false weight, measure or number on the package, the Inspector has been empowered to open a package for verifying whether the net contents of such package have been correctly stated thereon. It has been further provided that where, on such verification, he finds that the net contents specified on the package have been correctly stated, he shall get the commodity repacked or where that is not possible, pay the market value of the package. Where, however, he finds that the net contents have been incorrectly stated on a package, he has been empowered to seize the package and to prohibit the sale of similar packages until they are repacked and the net contents thereof are correctly stated on each package.

Termination of certain customs and usages

The Committee is aware that there is a wide spread custom or usage in this country whereunder the seller is required to deliver, in addition to the quantity or number of the goods paid for, an extra quantity or number of such goods for which no payment is made to the seller. This practice enables the traders to acquire certain extra quantities of commodities without paying for such extra quantities. The extent of such illegal gain to the trader, at the cost of the seller, in busy markets is enormous. The Committee,

therefore, feels that in the interest of justice and fair play, the seller should not be made to part with any quantity of goods for which no payment will be made to him. The practice of obtaining or delivering any quantity or number of goods in excess of the quantity paid for has, therefore, been abolished.

Similarly, any custom or usage which permits the delivery of any quantity or number of goods less than the quantity paid for has also been abolished.

Sale by heaps, etc.

The Committee is aware that there are many markets in India where commodities are sold by heaps or in truck-loads or cart-loads without any weightment or measurement of the commodities contained in each such heap, truck or cart. The buyer is required to make an offer on the basis of an eye estimation of the quantity contained in each such heap, truck or cart. It is obvious that such eye estimation may, in most cases, be inaccurate and may lead to loss either to the buyer or to the seller. Therefore, the practice of sale by such eye estimation is neither conducive to the interests of the seller nor to those of the buyer. With a view to ensuring that neither the buyer nor the seller should suffer any loss, it has been provided that every seller, who sells any commodity by heap, truck-load or cart-load, should announce either by a written notice or by word of mouth, the approximate net quantity contained in each such heap, truck or cart so that there may not be any confusion either in the mind of the seller or the buyer as to the quantity of the commodity sought to be sold or bought.

With a view to protecting petty sellers from harassment, it has, however, been provided that this requirement need not be fulfilled where the value of the commodity contained in the heap does not exceed one rupee.

Fees

In the Model State Bill, the maximum amount which may be levied as fees, has only been specified. Since the fees which may be levied are to be commensurate with the services rendered, the rules would provide a graduated scale of fees, the amount of each fee being fixed in accordance with the amount of the work involved.

The Committee noted that the maximum amount of fee specified in the Bill has created some misconception. It is not the intention of the Committee that the maximum amount of fee should be levied in each case. The amount of fee would vary according to the quantum of work involved, which would vary substantially for different types of weights or measures or for different services. For example, the work involved in the verification of a cast iron weight will be very much less than the amount of work which would be involved in the verification of an oil tanker (ship). Consequently, the maximum fee would be justified for the verification of the oil tanker but it will not be justified for the verification of the cast iron weight. Accordingly, the maximum amount of fees would be levied only in such cases where the work done would be such as to justify the levy of the maximum amount of fees. Where the work load would be less, the fee would also be correspondingly less.

It was represented to the Committee that the fees for the verification and stamping of weights or measures of very small denominations are, in most cases, more than the prices thereof. Since the payment of the verification fee would cause a substantial increase in price of such weight or measure, there is a tendency to evade the payment of the fee. Hence, the imposition of a disproportionate fee is neither helpful to the consumer nor the Government itself. The Committee is, therefore, of the opinion that the fees for the verification of any weight or measure of a small denomination should be so fixed as not to exceed, in any case, the cost price thereof.

Penalties

The evidence received by the Committee shows that the penalties imposed for the breaches of the law being very nominal, the offenders usually find that the breaches of the law are more profitable to them than the observance of it. That is why, repeated prosecutions have failed to dissuade them from committing persistent infringements of the law. With a view to supporting this conclusion, the Committee would like to cite one instance of the many which were brought to its notice. Most of the sellers of sweets

have developed a practice of weighing sweets along with the card board boxes in which they are delivered to the consumer across the counter. The weight of each such card board box is usually not less than one-tenth of the sweets which are purported to be sold to the consumer. The weighment of the sweets along with the card board box thus deprives the customer of about one-tenth of the sweets, the cost of which would, according to the present prices, vary between 80P and Rs. 1.20P for every kilogram of sweets purchased by the customer. The customer thus loses sweets worth about 50P to 90P per kilogram, the price of the card board box being 30P or so. In this way the owners of sweetmeat shops are making an extra profit, and the quantum of such profit would not be less than Rs. 5.00 to Rs. 10.00 per hour in a shop having a brisk business. In such a shop, the extra profit may amount to Rs. 60/- to Rs. 120/- per day of 12 working hours. The extra profit thus made in the course of one year of 300 working days would come to about Rs. 18,000/- to Rs. 36,000. The shopkeeper who makes an extra profit by such sharp practice is not ordinarily expected to give up such lucrative practice unless the law provides for deterrent sentences for its violation. In the circumstances, the Committee feels that it is essential that the punishment for the contravention of the laws should be so deterrent that a person may not be tempted to contravene the law for the second time. It has, therefore, been provided that although the first offence relating to short weighment or short measurement will be punishable only with fine, the second or subsequent offence would invariably be punishable with imprisonment, to which fine may be added. The Committee hopes that the provision for imprisonment for a second or subsequent offence will prove to be a real deterrent.

A suggestion was made before the Committee for the inclusion of a provision for the imposition of a minimum penalty. The Committee felt that the contravention of the law may not only be made by affluent traders but may also be made by petty traders. While the amount of the minimum fine may be too trivial for the affluent trader, it may be too heavy for the petty trader. The Committee, therefore, did not think it desirable to include a provision for minimum penalty in the Bill.

Punishment have been generally increased and in some cases, as for example, counterfeiting of seals and the manufacture of false weights and measures, imprisonment has been provided as the only punishment so that the offender may not get away by payment of a small fine.

In the Model Bill provisions have been made for the summary trial of certain offences and for compounding of the offences specified in the Bill. Compounding of a second or subsequent offence, if committed within a period of three years from the date on which the first offence was committed, has, however, been prohibited. This has been done with a view to ensuring that a person who repeatedly violates the law may not get away from the consequences of such violation by compounding the offence. The said prohibition has, however, been limited to a period of three years so that such prohibition may not cause undue hardship to a person who had committed a second offence after the expiry of a period of three years from the date on which the first offence was committed.

Other provisions

In the Model Bill, it has been provided that a weight or measure which has been rejected on verification may be disposed of as scrap after such weight or measure has been defaced in the prescribed manner.

The manufacture of non-standard weights and measures has been completely prohibited.

It has been provided that appeals can only be preferred against orders made under the provisions of Chapter IVA, V, VI, VIII or IX.

It has been provided in the Model Bill that the provisions of the Indian Penal Code shall not apply to any offence which is punishable under the Model Bill.

It has been provided that the Model Bill will over-ride all other laws, except the Central law, relating to weights and measures.

CHAPTER VII

ADMINISTRATION OF THE PROPOSED LAWS

During its visits to the various States, the Committee found that the general impression, not only amongst the public but even amongst the persons who are expected to know better, is that the organisation dealing with the law relating to weights and measures is an insignificant one. The impression which has gained ground is that the function of the organisation is merely to ascertain whether metric weights and measures are being used in the petty day-to-day transactions in the ordinary bazaars, and, in some extreme cases, to check the accuracy of such weights and measures. This lack of appreciation as to the wide scope and functions of that organisation seemed to flow from the use of the words "weights and measures" in the name of the organisation implementing the law relating to weights and measures.

It has already been emphasized in Chapter II that the establishment of standards of weights and measures and the implementation thereof, by law, is not confined to petty measurements in the day-to-day transactions in the ordinary bazaars, but has an impact on the entire spectrum of human endeavour. In order to bring home, in the correct perspective, the wide scope and functions of the organisation constituted for implementation of the law relating to weights and measures, it is necessary to so rename that organisation as to convey a clear idea with regard to its scope and functions.

The expression "legal metrology" has been accepted internationally as a comprehensive term for denoting the entire range of the law relating to the establishment of standards of weights and measures and the enforcement of such law. It would be in the fitness of things to incorporate the said comprehensive expression in the name of the organisation. In the international field, the concerned organisation has been named as the International Organisation of Legal Metrology (OIML). On the said analogy, the organisation administering the law relating to weights and measures, whether at the centre or in the States, should be so re-named as to ensure that there is no misconception with regard to its wide scope and functions. The Committee, therefore, recommends that until independent Departments of Legal Metrology are established, both at the Centre and in the States, as recommended later in this Chapter, the organisations administering the Central law, or the State law, relating to weights and measures, should, as early as possible amend their names by substituting the expression "Legal Metrology" for the expression "Weights and Measures".

The proposed change in the name of the organisations in the States will not affect the appointment by the State Governments of the Controller or other persons, because such change in the name of the organisation cannot, in any way, take away the effect of the appointments made by the State Governments under the existing law.

Need to establish independent departments in the States

The Committee noted with regret that in most of the States, the organisations dealing with weights and measures are, in fact, appendages of larger departments. As a result, adequate attention is not being paid either to the importance of that organisation or to any requirement thereof.

The Committee further noted that in some of the States, high ranking officers have been appointed as *ex officio* Controllers of Weights and Measures. Such officers generally remain so busy with the various functions of their principal departments that they find it difficult to devote adequate time and attention to the development of the work connected with weights and measures or to give necessary guidance for the proper implementation of the laws relating to weights and measures.

Even in the States where full-time Controllers have been appointed, it was found that the recommendations made by them to the Government with regard to the needs of Department were not, in most cases, sympathetically considered owing to an inadequate appreciation, in the appropriate quarters, of the importance of the development of the organisation responsible for the enforcement of the laws relating to weights and measures.

The Committee further regretted to find that there have been frequent transfers of Controllers in most of the States. As a result of such transfers, there was a continuous change in the membership of this Committee, which had adversely affected its deliberations. The work relating to legal metrology being of a highly scientific and technical nature, such frequent transfers are not conducive to the interests of legal metrology or to the interests of the general public. The Committee, therefore, feels that once a person is appointed as the Controller, he should continue to hold such office for a sufficiently long time so that he may be in a position to make a valuable contribution to the development and expansion of legal metrology in the State.

At present the law is confined to the enforcement of the standards of weights and measures in the commercial field. The law envisaged by the Committee contemplates the enforcement of the standards of weights and measures in all fields of human endeavour. Such extension would, in its turn, cause a corresponding increase in the quantum of work of the organisation dealing with the enforcement of the law relating to weights and measures. There would, therefore, arise a need for the continuous expansion of the organisation dealing with the enforcement of the law relating to weights and measures. In the circumstances, the Committee feels that there is a pressing need for the establishment, in each State, of an independent Department of Legal Metrology under the charge of a full-time Controller (of the rank of a Secretary) so that he may apply his mind to the systematic and scientific development of legal metrology.

The establishment of an independent Department of Legal Metrology is also necessary with a view to making the levy of fees legally valid and constitutional. It has already been pointed out earlier that according to the decisions of the Supreme Court, the levy of fee would be valid and constitutional if the quantum of such levy is commensurate with the services rendered and the expenses incurred by the State Government in rendering such service. It will be difficult, in relation to the States in which the Department of Weights and Measures is an appendage of any other department, to establish the exact quantum of the expenses incurred in rendering any service in relation to weights and measures. Hence, if a challenge is made in a court of law with regard to the constitutional validity of the levy of any fee, it would put the Government into difficulty in apportioning the expenditure between the other department and the Department of Weights and Measures. It will, therefore, be safer to avoid this difficulty by establishing an independent Department of Legal Metrology in each State.

The Committee has carefully considered whether an independent department, if established, would be economically viable. The Committee found that the income derived by most of the State Governments from the fees levied and collected for the verification and stamping of weights and measures are usually in excess of the expenditure incurred by the State Government for the maintenance of the organisation responsible for the enforcement of the law relating to weights and measures. The surplus left after such expenditure is usually credited to the general revenues of the State. The Committee has already pointed out in Chapter V that the practice of crediting such surplus income to the Consolidated Fund of the State is contrary to law. Such surplus income is likely to be sufficient to meet the expenditure on the maintenance and development of the independent Department of Legal Metrology.

Even where the income derived by the State Government from the fees for the verification and stamping of weights and measures is not sufficient to meet the costs of maintenance and development of the Department of Legal Metrology, such costs will have to be met by the State Government from its general revenues because the Department of Legal Metrology is a service department and not a department for earning revenues. Such service is rendered essentially for the safety and security of the community and its environment, for ensuring fair trade and commerce, for the development and expansion of industry and for providing a firm base for the development of science and technology.

The Committee, therefore, strongly recommends the establishment of an independent Department of Legal Metrology in each State as early as possible.

Central organisations

The co-ordination, guidance and development of the entire work relating to legal metrology is looked after by three organisations of the Central Government, namely, the

Directorate of Weights and Measures in the Ministry of Industrial Development, the National Physical Laboratory at New Delhi, and the Mint of the Government of India at Bombay.

The co-ordination of the entire work relating to legal metrology is done by the Directorate of Weights and Measures through its headquarters at New Delhi and its liaison offices, in the Eastern, Western, Southern and Northern Zones, located at Calcutta, Bombay, Madras and Delhi, respectively.

The Institute of Training, which has recently been taken over by the Central Government from the Government of Bihar, is also under the charge of the said Directorate of Weights and Measures.

The National Physical Laboratory is the custodian of the national prototype of the kilogram and the national prototype of the metre referred to in the 1956-Act, and of other national standards. The certification of the reference and other standards is also made by it.

The Mint of the Government of India at Bombay manufactures the reference, secondary and working standards of weights and measures. The certification, before supply of working standards is also made by the Mint and for that purpose, reference and secondary standards are manufactured by the Mint under appropriate conditions with regard to the temperature, pressure and other parameters.

National Metrological Laboratory

Science is a tool of economic growth and is translated into industry and commerce through technology. Metrology being basic to science, the revised legislation prepared by the Committee envisages the services of a full-fledged National Metrological Laboratory. That laboratory is expected to undertake, amongst others, the following principal functions, namely :—

- (i) maintaining, in accordance with internationally accepted conditions, the national prototype of the kilogram, the national prototype of the metre referred to in the 1956-Act, and such other standard equipments and instruments as would enable the realisation of the national standards representing the other physical units of the SI and other units, recognized by the CGPM, or OIML, or both;
- (ii) causing the national prototype of the kilogram to be periodically compared with its international prototype;
- (iii) causing the national prototype of the metre, as referred to in the 1956-Act, to be periodically verified by the BIPM;
- (iv) causing inter-comparison of the standard equipments and other instruments used for the realisation of the remaining base units of the SI, as also of the supplementary, derived, special and other units recognized by the CGPM, or OIML, or both, with similar standard equipments and instruments possessed by the BIPM or by such other laboratories as may be recognized by the BIPM for such inter-comparison;
- (v) comparing, periodically, the reference standards of weights and measures and other standards of comparable accuracy, in use in India, with the appropriate national prototype or standards;
- (vi) approval of models of weights and measures and weighing and measuring instruments;
- (vii) imparting training in the higher echelons of legal metrology;
- (viii) carrying on of scientific investigations to establish the behaviour of commodities in packaged form under varied conditions;
- (ix) carrying on of such research as may be assigned to it by the CIPM for the purpose of refinement of the SI and other units or the development of any new unit which may be usefully added to the SI;

- (x) collaboration with the BIPM and laboratories in other countries;
- (xi) development of measuring equipments and methods of verification to be used by the Departments of Legal Metrology, both at the Centre and in the States, as well as those to be used in science, technology and industry;
- (xii) advising the industry on the development of sophisticated weights and measures and weighing and measuring instruments of high precision;
- (xiii) functions and responsibilities arising out of, or supplementary to the above-mentioned functions.

In order to discharge its functions, it will be necessary for the National Metrological Laboratory to acquire, progressively, the latest types of equipments and instruments, and to achieve refinement in the practical realisation of the SI and other units established by or under the Central Act. Further, for the purpose of approving models of weights and measures and weighing and measuring instruments, it will have to acquire new equipment and to develop methods of test and lay down criteria for the suitability and performance of a larger variety of weights and measures and weighing and measuring instruments. It will be seen from the list of principal functions of the proposed National Metrological Laboratory that it will have to take up a large volume of work and that the quantum of such work is expected to increase progressively.

The present functions of the National Physical Laboratory (NPL) may be broadly divided into two categories, namely, (i) work connected with research and development in physical sciences, and (ii) work connected with weights and measures. The work done at present by the NPL in connection with weights and measures is only a minor part of the work envisaged by the Committee for the National Metrological Laboratory. Expansion of that part of the NPL which deals with weights and measures would therefore, be necessary, and consequently separation of that part from the other part of the NPL should be effected as early as possible so that that part of the NPL which deals with legal metrology may form the nucleus of the proposed National Metrological Laboratory. Unless the separation of the Metrological Wing of the NPL is immediately made and steps are taken to so expand its activities as to be in a position to perform the functions expected of the National Metrological Laboratory, the interests of the development of legal metrology, in India may suffer grievously. In case the NPL is unable to convert itself into the National Metrological Laboratory, it may be necessary to constitute a separate laboratory for the purpose.

The Committee understands that there is an early prospect of the NPL receiving technical assistance from the Government of the Federal Republic of Germany for the development of the facilities in India relating to legal metrology. The Committee hopes that this assistance will be utilised to the maximum extent for the development of the metrological wing of the NPL.

The expenditure incurred for maintaining the National Metrological Laboratory is expected to be met, partially, from the fees realised from the initial and subsequent verification of various standards supplied to science, technology, industry and Government departments all over the country, testing and calibration of weighing and measuring instruments of high precision, approval of models and consultancy services rendered to industry.

Mint

The responsibility for the manufacture of reference, secondary and working standards has been entrusted to the Mint of the Government of India at Bombay from after the enactment of the Standards of Weights and Measures Act, 1956. The quality and workmanship of the products manufactured by the Mint have been found to be of a very high order and comparable with similar standards manufactured in the developed countries. The Mint at Bombay is also manufacturing standard weights and measures for export to foreign countries and such exports are bringing in a considerable amount of foreign exchange.

Under the revised law, as envisaged by the Committee, the scope of the manufacture of reference, secondary and working standards at the Mint at Bombay would be considerably diversified and substantially increased. The manufacture of sophisticated standard

weights and measures may, however, require the import of a few precision equipments. The expenditure on such import will be worthwhile because the foreign exchange so spent will have been recovered by the exports of the standard weights and measures manufactured by the Mint. The manufacture of sophisticated standard weights and measures by the Mint would also require skilled staff and the development of new and durable materials, as also new techniques for the manufacture of such standards. In the circumstances, the Committee feels that it is most desirable to have a separate Metrological Wing at the Mint of the Government of India at Bombay.

Directorate of Legal Metrology

At present the Directorate of Weights and Measures is manned, at its headquarters, by a Director and a Deputy Director, assisted by four Assistant Directors, who function as liaison officers at the four regional offices.

Under the revised law, as envisaged by the Committee, there would be a substantial expansion of the work of the Directorate and a very heavy responsibility will have to be shouldered by the Central Government. The existing strength of the Directorate will not be sufficient to cope with the volume of the increased work which the Directorate would be called upon to take over. Some of the principal duties which the Directorate will have to perform would relate to the —

- (i) participation in the work of the OIML and the implementation of the recommendations made by it;
- (ii) framing of rules under the Central Act and framing of model rules under the Model State Bill;
- (iii) establishment of supplementary, derived, special or other units;
- (iv) specification of the configuration, characteristics, etc., of weights and measures (including weighing and measuring instruments);
- (v) methods of verification of weights and measures;
- (vi) extent of tolerances which may be permitted in respect of weights and measures, packaged commodities and other goods sold by weight, measure or number;
- (vii) examination and publication of the details and other particulars of models which have been approved by the National Metrological Laboratory;
- (viii) supervision over, and the co-ordination of, inter-State trade and commerce in weights and measures and in other commodities which are sold by weight, measure or number;
- (ix) registration of exporters and importers;
- (x) specification of conditions under which non-standard weights and measures or packaged commodities sold by weight, measure or number may be exported;
- (xi) supervision over the import of non-standard weights and measures;
- (xii) inspections;
- (xiii) publication of a journal;
- (xiv) surveys and collection of statistics;
- (xv) specification of fees;
- (xvi) administration of the Indian Institute of Legal Metrology;
- (xvii) miscellaneous.

In addition to the above-mentioned items of work, one of the principal functions of the Directorate would be to provide the main motive force behind the implementation of the law relating to weights and measures throughout the length and breadth of India. It would be responsible for the superintendence, control, co-ordination and guidance of the activities of the Central organisations, but also for the co-ordination and guidance of the activities of the Departments of Legal Metrology in the various States, so that the objectives of the law could be achieved by the uniform manner of implementation of the law throughout India.

With the expansion of the scope of legal metrology, the expansion of the Training Institute at Patna would also be necessary in the very near future. Since the charge of the Training Institute has been taken over by the Central Government and that Institute is to be run, as envisaged by the Committee, as the Indian Institute of Legal Metrology, the work of the Directorate, in so far as it relates to the administration of that Institute, would also increase substantially.

In view of the substantial increase which is likely to take place in the very near future with regard to the quantum of work of the Directorate, the Committee feels that the continuation of the Directorate of Weights and Measures in its present form would be detrimental to the development of legal metrology in India. Consequently, the Committee recommends the strengthening of the said Directorate by placing it in the charge of a senior officer who is in a position to devote his full-time energy and attention to the implementation of the law and the development of legal metrology on systematic and scientific lines.

The Committee also feels that since the work of the Directorate of Legal Metrology would be of a highly scientific and technical nature, the senior officer who would take charge of the Directorate, should continue to be in charge of the Directorate for a sufficiently long time so that he may be in a position to make a valuable contribution to the development and expansion of legal metrology.

The Committee further feels that the three organisations of the Central Government, the Directorate of Legal Metrology, National Metrological Laboratory and the Metrology Wing of the Mint of the Government of India at Bombay should be placed under an independent Department of Legal Metrology so that the work of these organisations may be so co-ordinated and developed by a single authority as to enable legal metrology to play its appropriate role in the development of not only the economy of the country but also of science, technology, industry, safety of the country, its population and its environments.

Need for inclusion of Legal Metrology in National Plans

The development of legal metrology being necessary not only to ensure the progress of trade, commerce and industry but also to safeguard efficiently the health and safety of the community and its environments, the Committee feels that the development of legal metrology, both at the Centre and in the States, should be included in our national plans.

Need for permanent Organisations

The Committee observed that while some of the posts in the Directorate of Weights and Measures at the Centre are permanent, the Directorate itself has not so far been declared to be permanent and the Liaison Officers under it and the Indian Institute of Legal Metrology are not also permanent. The organisations in most of the States, for the enforcement of the law relating to weights and measures are also temporary and are being continued from year to year. The continuation of the Directorate of Weights and Measures and the Liaison Offices under it, and the organisations, in the States, for the enforcement of the law relating to weights and measures on a temporary basis is presumably based on the hypothesis that the continued existence of such Directorate or the organisations would become unnecessary after the completion of the transition from the pre-1956 standards to the standards of weights and measures established by or under the 1956-Act. The Committee feels that such a hypothesis is an erroneous one. The establishment of standards of weights and measures is itself a continuous process and the progress of science, technology and industry is dependent on it. Consequently, continued vigilance is necessary to ensure the proper establishment of such standards and the implementation thereof. It will be seen from the *Arthashastra* of Kautilya (*vide* Chapter I) that the need for continuous vigilance on the weights and measures was recognized as early as the Mauryan period. It has already been indicated in Chapter II what might be the extent of the damage which may be caused to the economy of the country or to the health of the population or to industrial production or protection if the standards of weights and measures are not rigorously enforced. In the circumstances, the continuation of the Directorate or the organisations in the States on a temporary basis is not only harmful to the interests of persons working therein but is also harmful to the interests of the country itself. The continued need for the establishment of standards of weights and measures and vigilance with regard to the implementation of such standards would be

necessary so long as weights and measures are used in human endeavour. The Committee, therefore, feels that it is high time that the said Directorate and the Liaison Offices under it, the Indian Institute of Legal Metrology and the Organisations of Legal Metrology in the States are placed on a permanent footing.

During its visits to the various States, the Committee regretted to find that the enforcement of the standards of weights and measures in the various States had not attained that amount of sufficiency as the Committee would have been glad to notice. This insufficiency was mainly due to the inadequacy of the number of persons employed, both of the Centre and in the States, for the enforcement of the law and the supervision over such enforcement. The scope of the law, as it now stands, is very limited. But even this limited law has not been adequately enforced on account of the inadequacy of the number of persons employed on the job. The law envisaged by the Committee would considerably widen the scope of the law and consequently a larger number of persons would be needed to enforce the law properly. The Committee, therefore, feels that the need to strengthen the Departments of Legal Metrology, both at the Centre and in the States, by the appointment of a larger number of qualified persons is an urgent one.

Scales of pay of Inspectors, etc.

SI and other units have a very scientific background (*vide* Chapter I). The verification of the weights and measures with a view to ascertaining their accuracy in accordance with the SI and other units, would require adequate knowledge in a number of scientific subjects. The personnel of the Department of Legal Metrology is, therefore, required to be recruited from amongst persons having adequate knowledge in the higher echelons of science. The scales of pay of such personnel should, therefore, be attractive enough to induce properly qualified persons to take up legal metrology as a career.

During its visits to the various States, the Committee regretted to find that the scales of pay of persons employed as Inspectors of Weights and Measures and other persons employed in the organisations for the enforcement of the law relating to weights and measures are grossly inadequate in most of the States. In order to justify such poor scales of pay, some State Governments have reduced the minimum qualifications for recruitment to the post of Inspector of Weights and Measures, to the level of Matriculation. It will be seen that reduction of the minimum qualifications to that of a Matriculate is not desirable, because a Matriculate cannot cope with the work which can only be done by a person having appropriate knowledge of applied physics and other branches of science and technology.

The Committee found that in some of the States, the scales of pay of Inspectors of Weights and Measures have been equated with the scales of pay of Inspectors in other departments. Such equation seems to proceed from a misconception as to the difference between the nature of work of the Inspectors in other departments and that of an Inspector of Weights and Measures. For example, an Inspector of Labour or Inspector of Civil Supplies or Inspector of Shops and Establishments is not required to possess such knowledge in science and technology as is required by an Inspector of Weights and Measures. In fact, even an Arts graduate may be employed as an Inspector of Labour or of Civil Supplies or of Shops and Establishments, but no Arts graduate can be employed as an Inspector of Weights and Measures. The Committee, therefore, feels that the scale of pay of Inspectors of Weights and Measures and all other officers employed in the Department of Legal Metrology should be so fixed as to be commensurate with the degree of scientific knowledge and experience which they are required to possess in order to be able to perform the duties expected of them. Further, the scales of pay should be so fixed as to ensure a status and dignity to the Inspectors of Weights and Measures so that they may be in a position to uphold the majesty of the law and their own position whenever any attempt is made to bring any pressure on them by any influential person. In fact, the evidence received by the Committee showed that even knowledgeable people pay scant respect to the Inspectors of Weights and Measures because of their poor pay. The Committee, therefore, recommends that the scales of pay of Inspectors of Legal Metrology should be so revised as to make them attractive enough to induce properly qualified persons to take up legal metrology as their career.

If proper scales of pay are ensured, the field of legal metrology may turn out to be an important avenue for providing employment to qualified engineers, scientists and technologists and may, thereby, contribute to the solution of the problem of unemployment of the educated.

The Committee regretted to notice that the scales of pay of Inspectors and other officers employed for enforcement of the State laws relating to weights and measures varied widely from State to State, and in some of the States, the scales of pay are very poor. The Committee feels that the scales of pay should be, as far as practicable, uniform in all the States so that the officer employed in a State may not feel that he is not getting the proper remuneration for his work.

The Committee also feels that the rules for recruitment of officers of the Department of Legal Metrology should be so framed as to ensure an adequate avenue of promotion to such of the existing staff as are properly qualified as also to such other staff as may be directly recruited in future. Such rules should also keep such balance between the new entrants in the higher ranks of the service and the promotees to such ranks as to ensure that every properly qualified person may become eligible for promotion to the highest rank.

The Committee understands that there is another Committee which is going into the question of organisation of the Departments of Legal Metrology. That Committee will, no doubt, take the above mentioned matters into consideration before making its recommendations to the Government.

Exchange of Officers

In order to give adequate experience and technical training to the personnel working in the Departments of Legal Metrology, it is necessary to make an exchange of officers both at the Centre and in the States. The Committee, therefore, feels that some officers of the State Governments may be brought on deputation for a short period at the Centre so that by working under the Central Government they may acquire an insight into the policies which are being pursued by the Central Government with regard to legal metrology. Similarly, some officers of the Central Government may be sent on deputation for a short period to the State Governments so that they may, by actually working in the States, understand how the law is being administered in the States and the difficulties which are faced by the State Governments in the administration of the law. This arrangement can, however, be made only with the consent of the Central and the State Governments. The Committee hopes that in the larger interests of the country and of legal metrology, the Central and the State Governments would like to agree to the exchange of officers for short periods.

Publication of a Journal

The Committee regretted to find that one of the root causes for the appalling ignorance of the role of weights and measures even amongst persons who are expected to be knowledgeable, is due to an inadequate publicity of the scope and functions of the Department of Legal Metrology. The Committee, therefore, feels that with a view to disseminating news and information with regard to legal metrology and the various advances made in that field in India and abroad, as also for encouraging study and research in legal metrology, there should be published, by the Directorate of Legal Metrology, a journal which would serve the purpose of establishing contacts with trade and industry in India and similar organisations abroad. The journal would also serve as a bridge between the staff working at the Centre and in the States and would enable them to acquire not only knowledge about the details of legal metrology but also about the advanced techniques employed for the implementation of legal metrology in other parts of the country as well as abroad.

Publicity

In addition to the publication of a journal, steps should also be taken to give adequate publicity to the news and information with regard to legal metrology and the various advances made in that field in India and in foreign countries. In such publicity, emphasis should be laid on—

- (i) the methods by which, and the extent to which, an ordinary consumer is defrauded by dishonest traders by using inaccurate weights and measures;
- (ii) the risk to life and safety which may be involved if inaccurate weights and measures are used in the field of human safety and protection; and
- (iii) the benefits to the economy of the country, and industry, education and other fields of human endeavour.

In making the publicity, all the media of publicity may be pressed into service. Since audio-visual publicity is usually the most effective form of publicity, the Committee feels that the radio, television and films may be utilised for giving adequate publicity to the matters indicated above.

Special Magistrates

It came to the notice of the Committee that Magistrates trying offences against the laws relating to weights and measures being very busy in trying a variety of other offences, do not find sufficient time to dispose of the cases relating to weights and measures at an early date. The delay in the disposal of cases not only causes harassment to the offender on account of such delay, but also causes undue waste of time of Inspectors by requiring them to attend the Court on each day of hearing of the case. The Committee, therefore, feels that it will be convenient if one Magistrate is earmarked in each Court for the trial of offences against the laws relating to weights and measures.

The Committee further feels that the appointment of mobile magistrates would be conducive to the interests of the enforcement of the law. If mobile magistrates are appointed, it would be possible for them to visit the local markets, both wholesale and retail. The presence of a mobile magistrate in such markets would, by itself, be a deterrent to the contravention of the law. If, however, any contravention of the law is still made, it would be possible for the Inspector to produce the offender before the magistrate along with the best evidence with regard to the offence. The harassment and delay which is caused in the trial of offences is one of the main reasons as to why persons do not come forward to give evidence in a prosecution. If the person concerned is assured that there would be no harassment and that the case would be finished on the spot, his main anxiety for keeping away from the case would disappear and he would, in most cases, extend his co-operation to the Inspector. The Committee, therefore, hopes that it would be possible for each State Government to provide for mobile magistrates for the trial of offences against the laws relating to weights and measures.

Conclusion

The need for the revision of the 1956-Act and the existing State Weights and Measures (Enforcement) Acts has already been explained in the previous Chapters. In view of the adoption, in the international field, of the SI and other units, it has become necessary for India to so change its laws as to adopt the international units so that India may take its appropriate place in the comity of nations. The loopholes which exist in the present law relating to weights and measures are also required to be plugged urgently because such loopholes are not only adversely affecting the trade, commerce and industry but are also enabling a handful of unscrupulous traders to make unconscionable monetary gains at the cost of the mass of unsophisticated farmers and consumers.

The rapid industrialisation of the country and the progress in the field of agriculture and transport are creating, in their wake, problems relating to the pollution of air, water, land and the environments. It has, therefore, become urgently necessary for the Government to consider the desirability of undertaking suitable legislations for the control of such pollution and the constitution, within the Department of Legal Metrology, of appropriate machinery for the accurate measurement of the extent of such pollution so that adequate steps may be taken to keep it within the safe limits.

The assurance of accuracy in the industrial measurements would create a confidence with regard to the performance of the machinery or parts thereof manufactured in India. Such confidence would not only increase the home consumption of machinery manufactured in India, but would also generate a favourable climate for the export of such machinery or parts thereof.

For the reasons which have already been stated, the revision of the law relating to weights and measures has become an urgent necessity. The Committee hopes that the Central and the State Governments would like to undertake, at an early date, legislation on the lines of the respective Bills prepared by the Committee.

Some of the administrative steps indicated in this Chapter may be taken even before the proposed legislations have been enacted. The need to take the other administrative steps, recommended by the Committee, would arise after the enactment of the proposed legislations. The need to take such other administrative steps need not, therefore, hold up the enactment of the legislations recommended by the Committee.

THE FIRST SCHEDULE

THE STANDARDS OF WEIGHTS AND MEASURES BILL 1972

A BILL

to establish standards of weights and measures, to regulate inter-State trade or commerce in weights, measures and other goods which are sold or distributed by weight, measure or number, and to provide for matters connected therewith or incidental thereto.

BE, it enacted by Parliament in the Twenty-third Year of the Republic of India as follows:—

PART I

PROVISIONS APPLICABLE TO EVERY PART

1. (1) This Act may be called the Standards of Weights and Measures Act, 1972. Short title
extent and
commence-
ment.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification, appoint, and different dates may be appointed for different—

- (a) provisions of this Act,
- (b) areas,
- (c) classes of undertakings,
- (d) classes of goods,
- (e) classes of weights and measures, or
- (f) classes of users of weights and measures,

and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision in such areas, or in respect of such classes of undertakings, goods, weights and measures or users of weights and measures in relation to which this Act has been brought into force.

2. In this Act, unless the context otherwise requires,— Definitions.

(a) “calibration” means all the operations which are necessary for the purpose of determining the values of the errors of a weight or measure and, if necessary, to determine the other metrological properties of such weight or measure, and includes the actual fixing of the positions of the gauge-marks or scale-marks of a weight or measure, or in some cases, of certain principal marks only, in relation to the corresponding values of the quantity to be measured.

Explanation.—Calibration may also be carried out with a view to permitting the use of a weight or measure as a standard;

(b) “commodity in packaged form” means commodity packaged, whether in any bottle, tin, wrapper or otherwise, in units suitable for sale, whether wholesale or retail;

(c) “dealer”, in relation to any weight or measure, means a person who, or a firm or a Hindu undivided family which, carries on, directly or otherwise, the business of buying, selling, supplying or distributing any such weight or measure, whether

for cash or for deferred payment or for commission, remuneration or other valuable consideration, and includes—

(i) a commission agent who carries on such business on behalf of any principal,

(ii) an importer who sells, supplies distributes or otherwise delivers any weight or measure to any user, manufacturer, repairer, consumer or any other person,

but does not include a manufacturer who sells, supplies, distributes or otherwise delivers any weight or measure to any person or category of persons referred to in this clause.

Explanation.—For the removal of doubts, it is hereby declared that a manufacturer, who sells, supplies, distributes or otherwise delivers any weight or measure to any person other than a dealer, shall be deemed to be a dealer;

(d) "Director" means the Director of Legal Metrology appointed under section 28;

(e) "export", with its grammatical variations and cognate expressions, means taking out of India to a place outside India;

(f) "false package" means any package which does not conform to the provisions of this Act or any rule or order made thereunder in relation to such package;

(g) "false weight or measure" means any weight or measure which does not conform to the standards established by or under this Act to that weight or measure;

(h) "General Conference on Weights and Measures" means the *Conference General des Poids et Mesures* established under the *Convention du Metre*;

(i) "import", with its grammatical variations and cognate expressions, means bringing into India from a place outside India;

(j) "International Bureau of Weights and Measures" means the *Bureau Internationale des Poids et Mesures*, established under the *Convention du Metre*, et Sevres in France;

(k) "International Organisation of Legal Metrology" means the *Organisation Internationale de Metrologie Legale* established under the *Convention Instituant Une Organisation Internationale de Metrologie Legale*;

(l) "International Prototype of the Kilogram" means the prototype sanctioned by the First General Conference on Weights and Measures held in Paris in 1889, and deposited at the International Bureau of Weights and Measures;

(m) "inter-State trade or commerce", in relation to any weight or measure or other goods which are brought, sold, supplied, distributed or delivered by weight, measure or number, means the purchase, sale, supply, distribution or delivery which—

(i) occasions the movement of such weight, measure or other goods from one State to another, or

(ii) is effected by a transfer of documents of title to such weight, measure or other goods during its movement from one State to another.

Explanation 1.—Where any such weight or measure is, or other goods are, delivered to a carrier or other bailee for transmission, the movement of such weight, measure or other goods

shall, for the purposes of sub-clause (ii), be deemed to commence at the time of such delivery and terminate at the time when delivery is taken from such carrier or bailee.

Explanation II.—Where the movement of any such weight, measure or other goods commences and terminates in the same State, it shall not be deemed to be a movement of such weight, measure or other goods from one State to another by reason merely of the fact that in the course of such movement it passes through the territory of any other State;

(n) “label” means any written, marked, stamped, printed or graphic matter affixed to, or appearing upon, any commodity or package containing any commodity;

(o) “manufacturer”, in relation to any weight or measure, means a person who, or a firm or a Hindu undivided family which,—

(i) makes or manufactures such weight or measure,

(ii) makes or manufactures one or more parts, and acquires the other parts, of such weight or measure and, after assembling those parts, claims the end product to be a weight or measure manufactured by himself or itself, as the case may be,

(iii) does not make or manufacture any part of such weight or measure but assembles parts thereof made or manufactured by others and claims the end product to be a weight or measure manufactured by himself or itself, as the case may be,

(iv) puts, or causes to be put, his own mark on any complete weight or measure made or manufactured by any other person and claims such product to be a weight or measure made or manufactured by himself or itself, as the case may be.

Explanation.—Where any manufacturer despatches any weight or measure or any part thereof to any branch office maintained by him or it, such branch office shall not be deemed to be a manufacturer even though the parts so despatched to it are assembled at such branch office;

(p) “notification” means a notification published in the Official Gazette;

(q) “person” includes—

(i) every department or office,

(ii) every organisation established or constituted by Government,

(iii) every local authority within the territory of India,

(iv) every co-operative society,

(v) every other society registered under the Societies Registration Act, 1860;

(r) “premises” includes,—

(i) a place where any business, industry, production or trade is carried on by a person, whether by himself or through an agent, by whatever name called,

(ii) a warehouse, godown or other place where any weight, measure or other goods are stored or exhibited.

(iii) a place where any books of account or other documents pertaining to any trade or transaction, are kept,

(iv) a dwelling house, if any part thereof is used for the purpose of carrying on any business, industry, production or trade.

Explanation.—“Place” includes a vehicle or vessel or any other mobile device, with the help of which any trade or business is carried on, and also includes any measuring instrument mounted on a vehicle, vessel or other mobile device;

(s) “prescribed” means prescribed by rules made under this Act and “prescribed authority” means such authority as may be specified by such rules;

(t) “reference standard” means the set of standard weight or measure which is made or manufactured by or on behalf of the Central Government for the verification of any secondary standard;

(u) “repairer” includes a person who adjusts, cleans, lubricates or paints any weight or measure or renders any other service to such weight or measure to ensure that such weight or measure conforms to the standards established by or under this Act;

(v) “sale”, with its grammatical variations and cognate expressions, means transfer of property in any weight, measure or other goods by one person to another for cash or for deferred payment or for any other valuable consideration, and includes a transfer of any weight, measure or other goods on the hire-purchase system of payment by instalments, but does not include a mortgage or hypothecation of, or a charge or pledge on, such weight, measure or other goods;

(w) “seal” means a device or process by which a stamp is made, and includes any wire or other accessory which is used for ensuring the integrity of any stamp;

(x) “secondary standard” means the set of standard weight or measure which is made or manufactured by or on behalf of the Central or State Government for the verification of any working standard;

(y) “stamp” means a mark, which is made on, or in relation to, any weight or measure with a view to—

(i) certifying that such weight or measure conforms to the standards specified by or under this Act, or

(ii) indicating that any mark which was previously made thereon certifying that such weight or measure conforms to the standards specified by or under this Act, has been obliterated.

Explanation.—A stamp may be made by impressing, casting, engraving, etching, branding or any other process;

(z) “transaction” means—

(i) any contract, whether for sale, purchase, exchange or any other purpose, or

(ii) any assessment of royalty, toll, duty or other dues, or

(iii) the assessment of any work done, wages due or services rendered;

(za) “unverified weight or measure” means a weight or measure which, being required to be verified and stamped under this Act, has not been so verified and stamped;

(zb) "verification", with its grammatical variations and cognate expressions, includes, in relation to any weight or measure, the process of comparing, checking, testing or adjusting such weight or measure with a view to ensuring that such weight or measure conforms to the standards established by or under this Act and also includes re-verification and calibration;

(zc) "weighing or measuring instrument" means any object, instrument, apparatus or device, or any combination thereof, which is, or is intended to be, used, exclusively or additionally, for the purpose of making any weighing or measurement, and includes any appliance, accessory or part associated with any such object, instrument, apparatus or device;

(zd) "weight or measure" means a weight or measure specified by or under this Act, and includes a weighing or measuring instrument;

(ze) "working standard" means the set of standard weight or measure which is made or manufactured by or on behalf of Government for the verification of any standard weight or measure, other than a national prototype or national, reference or secondary standard.

3. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or in any instrument having effect by virtue of any enactment other than this Act.

Provisions of this act to override the provisions of any other law.

PART II

ESTABLISHMENT OF STANDARDS OF WEIGHTS AND MEASURES

CHAPTER I

Standard units

4. (1) Every unit of weight or measure shall be based on the units of the metric system.

Units of weight or measure to be based on metric system.

(2) For the purposes of sub-section (1),—

(a) the international system of units as recommended by the General Conference on Weights and Measures, and

(b) such additional units as may be recommended by the International Organisation of Legal Metrology, shall be the units of the metric system.

5. (1) The base unit of length shall be the metre.

Base unit of length.

(2) The "metre" is the length equal to 1 650 763.73 wave lengths in vacuum of the radiation corresponding to the transition between the levels $2p_{10}$ and $5d_5$ of the krypton H-86 atom.

6. (1) The base unit of mass shall be the kilogram.

Base unit of mass.

(2) The "kilogram" is the unit of mass; it is equal to the mass of the International Prototype of the Kilogram.

7. (1) The base unit of time shall be the second.

Base unit of time.

(2) The "second" is the duration of 9 192 631 770 periods of the radiation corresponding to the transition between the two hyper-fine levels of the ground state of the caesium H-133 atom.

Base unit of electric current.

8. (1) The base unit of electric current shall be the ampere.

(2) The "ampere" is that constant current which if maintained in two straight parallel conductors of infinite length, of negligible circular cross-section, and placed one metre apart in vacuum, would produce between these conductors a force equal to 2×10^{-7} newton per metre of length.

Base unit of thermodynamic temperature.

9. (1) The base unit of thermodynamic temperature shall be the kelvin.

(2) The "kelvin" is the fraction $1/273.16$ of the thermodynamic temperature of the triple point of water.

(3) The kelvin shall also be used for expressing the interval of temperature.

(4) The degree Celsius of the International Practical Scale of Temperature, the zero degree of which corresponds to 273.15 kelvins, is equal to the kelvin.

(5) The degree Celsius may also be used for expressing the interval of temperature.

Base of luminous intensity.

10. (1) The base unit of luminous intensity shall be the candela.

(2) The "candela" is the luminous intensity, in the perpendicular direction, of a surface of $1/600\,000$ square metre of a black body at the temperature of freezing platinum under a pressure of $101\,325$ newtons per square metre.

Base unit of amount of substance.

11. (1) The base unit of amount of substance shall be the mole.

(2) The "mole" is the amount of substance of a system which contains as many elementary entities as there are atoms in 0.012 kilogram of carbon 12.

NOTE:—When the mole is used, the elementary entities must be specified and may be atoms, molecules, ions, electrons, other particle, or specified groups of such particles.

Supplementary, derived, special and other units of weight or measure—their symbols, definitions, etc.

12. (1) The Central Government may, by rules made in this behalf, specify, in relation to the base units of weight or measure, such supplementary, derived, or other units or standard symbols or definitions as the General Conference on Weights and Measures or the International Organisation of Legal Metrology may recommend.

Explanation.—"Derived unit" means a unit which is derived from the base, or supplementary, units, or both.

(2) The Central Government may, by rules made in this behalf, specify such multiples and sub-multiples of, and physical constants, ratios of co-efficients in relation to, units of weight or measure as the General Conference on Weights and Measures or the International Organisation of Legal Metrology may recommend.

(3) The Central Government may, by notification, declare, for such period as it may consider necessary such special units of weight or measure as the General Conference on Weights and Measures or the International Organisation of Legal Metrology may recommend.

Base unit of numeration.

13. (1) The base unit of numeration shall be the unit of the international form of Indian numerals.

(2) Every numeration shall be made in accordance with the decimal system.

(3) The decimal multiples and sub-multiples of the numerals shall be of such denominations and be written in such manner as

the Central Government may, after previous publication, specify by rules made in this behalf:

Provided that no such rule shall be made before the expiry of six months from the date on which the draft of the proposed rules was first published in the Official Gazette.

14. (1) The base unit of weight specified in section 6 and base units of measures specified in sections 5 and 7 to 11 (both inclusive) and the supplementary and other units specified by rules made under section 12, shall be the standard units of weight or measure, as the case may be. Standard unit of weight or measure.

(2) The units of numeration specified by or under section 13 shall be the standard units of numeration.

CHAPTER II

Physical representation of standard units

15. (1) For the purpose of deriving the value of the kilogram, the Central Government shall cause to be prepared a national prototype of the kilogram and shall cause its accuracy to be certified by the International Bureau of Weights and Measures in terms of the International Prototype of the Kilogram and shall deposit the same in such custody and at such place as that Government may think fit. National prototypes.

(2) For the purpose of deriving the value of the metre, the Central Government may cause to be prepared a national prototype of the metre and, where such prototype is caused to be made, shall also cause its accuracy to be certified by the International Bureau of Weights and Measures and deposit the same in such custody and at such place as that Government may think fit.

16. (1) For the purpose of deriving the value of the base units, other than the base unit of mass, the Central Government shall cause to be prepared such objects or equipments, or both, as may be necessary for the purpose and shall cause the accuracy of such objects or equipments, or both, to be certified by the International Bureau of Weights and Measures at such periodical intervals as may be prescribed, and, shall, after such certification, deposit such objects or equipments, or both, in such custody and at such place as that Government may think fit. National standards.

(2) For the purpose of deriving the value of the supplementary and other units specified under section 12, the Central Government shall cause to be prepared such objects or equipments, or both, as may be necessary for the purpose and shall cause the accuracy of such objects or equipments, or both, to be certified as such periodical intervals and by such authority as may be prescribed, and, shall after certification, deposit such objects or equipments, or both, in such custody and at such place as that Government may think fit.

17. Every national prototype specified in section 15 and every object or equipment, or both, referred to in section 16, shall be kept in such manner and under such conditions as may be prescribed. National prototype and national standard how to be kept.

18. (1) Every—

- (a) reference standard,
- (b) secondary standard, and
- (c) working standard,

Reference, secondary and working standards.

shall conform to the standards established by or under this Act and be verified and authenticated at such periodical intervals and in such manner as may be prescribed.

(2) Every reference standard, every secondary standard and every working standard shall be kept in such manner and under such conditions as may be prescribed.

Power of
Central Go-
vernment to
prescribe
physical cha-
racteristics,
etc., of
weights and
measures.

19. (1) The Central Government shall, in relation to any weight or measure, prescribe the physical characteristics, configuration, constructional details, materials, equipment, performance, tolerances, methods or procedures of tests in accordance with the recommendations made by the International Organisation of Legal Metrology:

Provided that where no such recommendation has been made, the Central Government shall prescribe such physical characteristics, configuration, constructional details, materials, equipment, performance, tolerances, methods or procedures of tests in relation to any weight or measure as it may think fit.

(2) Where it is not reasonably practicable to give effect to any recommendation made by the International Organisation of Legal Metrology, the Central Government may make such changes of a minor nature in the recommendation of the International Organisation of Legal Metrology as may appear to it to be necessary.

CHAPTER III

Standard weights and measures

Standard
weight or
measure.

20. (1) Any weight or measure which conforms to the standard unit of such weight or measure and also conforms to such of the provisions of sections 15 to 19 (both inclusive) as are applicable to it shall be the standard weight or measure.

(2) Any numeral which conforms to the provisions of section 13 shall be the standard numeral.

Use of non-
standard
weight or
measure pro-
hibited.

21. No weight, measure or numeral, other than the standard weight, measure or numeral, shall be as a standard weight, measure or numeral.

Manufacture
of non-stand-
ard weight or
measure pro-
hibited.

22. No weight or measure shall be made or manufactured unless it conforms to the standards of weight or measure established by or under this Act:

Provided that the Central Government may permit the making or manufacturing of any weight or measure which does not conform to the standards established by or under this Act, if such weight or measure is made or manufactured exclusively for the purpose of export and is made or manufactured under such conditions and restrictions as may be prescribed.

Prohibition
with regard
to inscrip-
tions, etc.

23. No weight, measure or other goods shall bear thereon any inscription or indication of weight, measure or number except in accordance with the standard unit of such weight, measure or numeration established by or under this Act:

Provided that in relation to any weight, measure or other goods which are exported, inscription or indication thereon of any weight, measure or number may also be made in accordance with any other system of weight, measure or numeration if such inscription or indication is demanded by the person to whom the export is to be made.

CHAPTER IV

Custody and verification of standard equipments

Supply, etc.,
of reference
standards.

24. (1) The Central Government shall cause to be prepared, for the purposes of this Act, as many sets of reference standards as it

may think necessary and shall supply to each State Government as many sets of reference standards as it may think fit.

(2) The Central Government shall keep in its custody, for the purposes of this Act, such number of reference standards as may be necessary.

(3) Every reference standard referred to in sub-section (2) shall be kept at such place and in such custody as may be prescribed and no such reference standard shall be deemed to be a reference standard and shall be used as such unless it has been verified and authenticated in accordance with the rules made under this Act.

25. The Central Government shall cause to be prepared, for the purposes of this Act, as many sets of secondary standard or working standard as it may think necessary and shall keep such secondary standard or working standard at such place and in such custody as may be prescribed.

26. (1) Every secondary standard referred to in section 25 shall be verified with the reference standard by such authority as may be prescribed and shall, if found on such verification to conform to the standards established by or under this Act, be stamped by that authority.

Preparation
and custody
of secondary
or working
standards.
Verification,
stamping,
etc., of
secondary
or working
standards.

(2) Every working standard referred to in section 25 shall be verified with the secondary standard which has been stamped in accordance with the provisions of sub-section (1), by such authority as may be prescribed and shall, if found on such verification to conform to the standards established by or under this Act, be stamped by that authority.

(3) Where any secondary standard or working standard is stamped in accordance with the provisions of sub-section (1) or sub-section (2), as the case may be, a certificate shall be separately given showing the date on which such weight or measure was stamped.

(4) Every secondary standard or working standard which is not verified and stamped in accordance with the provisions of sub-section (1) or sub-section (2), as the case may be, shall not be deemed to be a secondary standard or working standard and shall not be used as such.

27. Where the Central Government is of opinion that by reason of the size or nature of any secondary standard or working standard referred to in section 25, it is not desirable or practicable to put a stamp thereon, it may direct that instead of putting a stamp on such secondary standard or working standard, a certificate may be issued to the effect that such secondary standard or working standard conforms to the standards established by or under this Act and every secondary standard or working standard so certified shall be deemed to have been duly stamped under this Act on the date on which such certificate was issued.

Secondary or
working
standard
which may
be stamped.

PART III

APPOINTMENT AND POWERS OF DIRECTOR AND OTHER STAFF

28. (1) The Central Government may by notification, appoint a Director of Legal Metrology and as many additional, Joint, Deputy or Assistant Directors and other officers and staff as may be necessary for exercising the powers and efficiently discharging the duties conferred or imposed on them by or under this Act.

Appointment
of Director
and other
staff.

(2) Every Additional, Joint, Deputy or Assistant Director and other officer, appointed under sub-section (1), shall exercise such powers, and discharge such functions of the Director as the Central Government may, by notification, authorise in this behalf.

(3) The Director may, by general or special order, define the local limits within which each Additional, Joint, Deputy or Assistant Director or other officer, appointed under sub-section (1), shall exercise his powers and discharge the duties conferred or imposed on him by or under this Act.

(4) Subject to the provisions of this Act, every Additional, Joint, Deputy or Assistant Director and every other officer, appointed under sub-section (1), shall exercise his powers and discharge the duties of his office under the general superintendence, direction and control of the Director and shall exercise those powers and discharge those duties in the same manner and with the same effect as if they had been conferred or imposed on him directly by this Act and not by way of authorisation.

(5) The Director and every Additional, Joint, Deputy and Assistant Director and every other officer authorised to perform any duty by or under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

(6) No suit, prosecution or other legal proceeding shall lie against the Director, Additional, Joint, Deputy or Assistant Director or any other officer authorised to perform any duty by or under this Act in respect of anything which is in good faith done or intended to be done under this Act or any rule or order made thereunder.

(7) The Central Government may, with the consent of the State Government and subject to such conditions, limitations and restrictions as it may specify in this behalf, delegate such of the powers of the Director under this Act as it may think fit to the person for the time being holding the office of the Controller of Legal Metrology, in the State, and such Controller, may, if he is of opinion that it is necessary or expedient in the public interest so to do, delegate such of the powers delegated to him as he may think fit to any officer subordinate to him, not being an officer below the rank of an Inspector, and where any such delegation of powers is made by such Controller, the person to whom such powers are delegated shall exercise those powers in the same manner and with the same effect as if they had been conferred on him directly by this Act and not by way of delegation.

(8) Where any delegation of powers is made under sub-section (7), the powers so delegated shall be exercised under the general superintendence, direction and guidance of the Director.

Power of
inspection,
etc.

29. (1) The Director, or any person authorized to exercise the powers or discharge the functions of the Director, may, if he has any reason to believe, whether from any information given to him by any person and taken down in writing or from personal knowledge or otherwise, that any weight or measure or other goods in respect of which an offence punishable under this Act appears to have been, or is likely to be committed, are either kept or concealed in any premises or are in the course of transportation from one State to another,—

(a) enter at any reasonable time into any such premises and search for and inspect any weight, measure or other goods in relation to which inter-State trade or commerce has taken place, and any record, register or other document relating thereto;

(b) seize any weight, measure or other goods and any record, register or other document or article which he has reason to believe may furnish evidence indicating that an offence under this Act has been, or is likely to be, committed.

(2) Where any goods seized under sub-section (1) are subject to speedy or natural decay, the Director or the authorised person may dispose of such goods in such manner as may be prescribed.

5 of 1898. (3) Every search or seizure made under this section shall be carried out in accordance with the provisions of the Code of Criminal Procedure, 1898, relating to searches and seizures made under that Code.

30. Every false or unverified weight or measure, and every false packages, seized under section 29, shall be liable to be forfeited to Government: Forfeiture.

Provided that an unverified weight or measure shall not be forfeited to Government if the person from whom such weight or measure was seized gets the same verified and stamped within such time as may be prescribed.

PART IV

INTER-STATE TRADE OR COMMERCE IN WEIGHT, MEASURE OR OTHER GOODS

CHAPTER I

Applicability of this Part

31. The provisions of this Part shall apply to—

(a) every weight or measure which is, or is intended to be,—

(i) made or manufactured for the purpose of inter-State trade or commerce,

(ii) used, sold, distributed, delivered or otherwise transferred in the course of inter-State trade or commerce;

(b) goods which are, or are intended to be, sold, distributed, delivered or otherwise transferred by weight, measure or number in the course of inter-State trade or commerce;

(c) every service which is rendered by weight, measure or number in relation to, or in the course of, inter-State trade or commerce.

Part IV to apply to inter-State trade or commerce only.

CHAPTER II

General

32. (1) The Central Government may, by rules made in this behalf, direct that in respect of the class of goods or undertakings or users specified therein, no transaction, dealing or contract shall be made or had except by such weight, measure or number as may be specified in the said rules. Use of weights only or measures only in certain cases.

(2) Any rule made under sub-section (1) shall take effect in such area, from such future date and subject to such conditions, if any, as may be specified therein.

Prohibition of quotations, etc., otherwise than in terms of standard units of weight, measure or numeration.

33. No person shall, in relation to any goods, thing or service,—

(a) quote, or make announcement of, whether by word of mouth or otherwise, any price or charge, or

(b) issue or exhibit any price list, invoice, cash memo or other document, or

(c) prepare or publish any advertisement, poster or other document, or

(d) indicate the contents of any package either on itself or on any label, carton or other thing, or

(e) indicate the contents on any container, or

(f) express any quantity or dimension, otherwise than in accordance with the standard unit of weight, measure or numeration.

Any custom, usage, etc., contrary to standard weight, measure or numeration to be void.

34. Any custom, usage, practice or method of whatever nature which permits a person to demand, receive, or cause to be demanded or received, any quantity of article, thing or service in excess of, or less than the quantity specified by weight, measure or number in the contract or other agreement in relation to the said article, thing or service, shall be void.

Manufacturers etc., to maintain records and registers.

35. (1) Every person who—

(a) makes, manufactures, sells, distributes or otherwise disposes of any weight or measure or other goods which are sold, delivered or distributed by weight, measure or number, or

(b) repairs any weight or measure,

to which this Part applies, shall maintain such records and registers as may be prescribed and if required so to do by the Director, shall produce such records and registers before the Director or such other officer as the Director may authorise in this behalf, for inspection.

(2) Notwithstanding anything contained in sub-section (1), if the Director is of opinion that having regard to the nature or volume of the business carried on by any maker, manufacturer, dealer or repairer, it is necessary so to do, he may, by order exempt such maker, manufacturer, dealer or repairer from the operation of that sub-section.

CHAPTER III

Approval of Models

Approval of models

36. (1) Save as otherwise provided in this section, this Chapter shall not apply to—

(a) any weight or measure which, being subject to verification and stamping under the State law as in force immediately before the commencement of this Act, is in use at such commencement;

(b) any cast iron, brass, bullion, or carat weight or any beam-scale, except those specified by rules made in this behalf;

(c) length measures (not being measuring tapes) ordinarily used in retail trade for measuring textiles or timber;

(d) capacity measures, not exceeding twenty litres in capacity, which are ordinarily used in retail trade for measuring kerosene, milk or portable liquors.

(2) Where any officer of the Central or State Government charged with the duty of implementing the law relating to weights and measures has any reason to believe that the model of any weight or measure referred to in sub-section (1) requires a test by the prescribed authority, he may obtain one such weight or measure from the market and forward it to the prescribed authority for test, the fees for which shall be payable by the Government employing the officer by whom such weight or measure has been forwarded for test.

(3) Every person shall, before making or manufacturing any weight or measure to which this Chapter applies, submit for approval of the prescribed authority, such number of models, drawings and other information relating to such weight or measure as may be prescribed:

Provided that in relation to any weight or measure which has already been made or manufactured, or which is in the process of being made or manufactured, at the commencement of this Part, models of such weight or measure shall be submitted to the prescribed authority from out of the weights or measures which have already been, or are in the process of being, made or manufactured:

Provided further that in the case of a weight or measure the model whereof cannot be submitted, whether by reason of its nature or otherwise, it shall be sufficient if the drawings and other prescribed information about the weight or measure is submitted to the prescribed authority and thereon that authority shall test the models of such weight or measure at the place where it is made or manufactured or at such other place as may be specified by the Director.

(4) The prescribed authority shall levy and collect such fees for the testing of any model, submitted under this section for approval, as may be prescribed.

(5) The prescribed authority shall test the models submitted to it with a view to—

(a) ascertaining whether such models conform to the standards established by or under this Act;

(b) finding out the ability of such models to maintain accuracy over periods of sustained use; and

(c) determining the performance of such models under such varied conditions as may be prescribed.

(6) The prescribed authority shall submit to the Central Government a detailed report on the performance of the model submitted to it together with its recommendations with regard to the desirability or otherwise of issuing a certificate of approval in respect of that model.

(7) The Central Government may, if it is satisfied after considering the report submitted to it by the prescribed authority that the aforesaid model is in conformity with the provisions of this Act or any rule made thereunder and is likely to maintain accuracy over periods of sustained use and to render accurate service under varied conditions, issue a certificate of approval in respect of that model.

(8) Every certificate of approval of a model shall be published in the Official Gazette and shall also be published in such other manner as the Central Government may think fit.

(9) The Central Government may, if it is satisfied that the product made or manufactured in accordance with the model which

was approved by it has failed to render the expected performance or to conform to the standards established by or under this Act, revoke the certificate of approval issued by it under sub-section (7) :

Provided that no such revocation shall be made except after giving the manufacturer of such weight or measure a reasonable opportunity of being heard :

Provided further that where the Central Government is satisfied that a result of the alteration made by the manufacturer in the model of the weight or measure, such model has become fit for approval, it may vacate the order of revocation of the certificate of approval issued by it.

(10) If for any reason any material of the approved model of a weight or measure becomes non-available in India, the manufacturer may continue the manufacture of such weight or measure with such substitute materials as may be, in his opinion, most suitable for the manufacture of such weight or measure but where the manufacturer does so, he shall send such substitute materials to the prescribed authority for test.

(11) If the prescribed authority is of opinion that the substitute material referred to in sub-section (10) is not suitable and that there is available in India any other material which is more suitable, that authority shall intimate its findings to the Central Government and the manufacturer, and thereupon the manufacturer shall not manufacture the weight or measure with any material other than the material recommended by the prescribed authority, until the material which was originally approved by the prescribed authority becomes available in India :

Provided that where, in the opinion of the prescribed authority, the substitute material referred to in sub-section (10) is not suitable and no other suitable material is also available in India, the approval in relation to the model shall stand suspended until a suitable material becomes available in India.

(12) Where the model of any weight or measure has been approved, the models of different denominations of such weight or measure shall not require any approval if such denominations are manufactured in accordance with the principles according to which, and the materials with which, the approved model has been manufactured.

Licence to manufacture weights or measures when to be issued.

37. (1) Before issuing a licence to make or manufacture any weight or measure to which this Chapter applies, the State Government shall satisfy itself that a certificate of approval of the model of such weight or measure has been granted by the Central Government under section 36.

(2) Where any certificate of approval of any model has been revoked by the Central Government the licence issued by the State Government for the making or manufacturing of any weight or measure in accordance with such model shall stand suspended :

Provided that such suspension shall stand vacated if such model is subsequently approved by the Central Government.

Weight or measure to contain number of the approved model, etc.

38. Every weight or measure for which a model has been approved shall bear thereon, in such manner as may be prescribed, the number of the approved model and the number of the certificate by or under which such model was approved :

Provided that where the Central Government is of opinion that inclusion of any such particulars on any weight or measure is not possible by reason of its size or nature, that Government may exempt the inclusion of such particulars on such weight or measure.

CHAPTER IV

Commodities in packaged form

39. (1) No person shall—

(a) make, manufacture, pack, sell, or cause to be packed or sold; or

(b) distribute, deliver, or cause to be distributed or delivered; or

(c) offer, expose or possess for sale, any commodity in packaged form unless such package bears thereon or on a label securely attached thereto a definite, plain and conspicuous declaration, made in the prescribed manner, of—

(i) the identity of the commodity in the package;

(ii) the net quantity, in terms of the standard unit of weight or measure, of the commodity in the package;

(iii) where the commodity is packed or sold by number, the accurate number of the commodity contained in the package; and

(iv) the unit sale price of the commodity in the package.

Explanation.—In this sub-section, the expression, “unit sale price” means the price according to such unit of weight, measure or number as may be prescribed.

(2) Every package referred to in sub-section (1) shall bear thereon the name of the manufacturer and also of the packer or distributor.

(3) Where the package of a commodity or the label thereon bears a representation as to the number of servings, of the commodity contained therein, such package or label shall also bear a statement of the net quantity (in terms of weight, measure or number) of each such serving.

(4) The statement on a package or label as to the net weight, measure or number of the contents thereof shall not include any expression which tends to qualify such weight, measure or number.

(5) Where the Central Government has reason to believe that there is undue proliferation of weight, measure or number in which any commodity is, or reasonably comparable commodities are, being packed for sale, distribution or delivery and such undue proliferation impairs, in the opinion of that Government, the reasonable ability of the consumer to make a comparative assessment of the prices after considering the net quantity or number of such commodity, that Government may direct the manufacturers and also the packers or distributors to sell, distribute or deliver such commodity in such standard quantities or number as may be prescribed.

(6) Whenever the retail price of a commodity in packaged form is stated in any advertisement, there shall be included in the advertisement, a conspicuous declaration as to the net quantity or number of the commodity contained in the package and retail unit sale price thereof.

Quantities
and origin of
commodities
in packaged
form to be
declared.

(7) No person shall sell, distribute or deliver for sale a package containing a commodity which is filled less than the prescribed capacity of such package except where it is proved by such person that the package was so filled with a view to—

- (a) giving protection to the contents of such package, or
- (b) meeting the requirements of machines used for enclosing the contents of such package.

(8) The Central Government may, by rules, specify such reasonable variations in the net contents of the commodity in a package as may be caused by the method of packing or the ordinary exposure which may be undergone by such commodity after it has been introduced in trade or commerce.

CHAPTER V

Verification and stamping of weights and measures sent from one State to another

Definitions.

40. In this Chapter, unless the context otherwise requires,—

(a) “Controller” means the person appointed as such by the State Government under the State law;

(b) “Inspector” means the person appointed as such by the State Government under the State law;

(c) “local Inspector” means an Inspector within the local limits of whose jurisdiction any weight or measure is made, manufactured, received, delivered or kept for sale or use;

(d) “State law” means the law enacted by the Legislature of a State, and for the time being in force in that State, with regard to the enforcement of the standards of weight or measure established by or under this Act;

(e) “transferee State” means the State in which any weight or measure is received or delivered for sale or use therein from any other State;

(f) “transferor State” means the State from which any weight or measure made or manufactured therein, or kept therein for sale or use, is sent to, or delivered in, any other State.

Verification and stamping of weights and measures sent from one State to another.

41. (1) Where any weight or measure, sent from a transferor State for delivery, sale or use in a transferee State, is such that—

(a) it is not required to be dismantled before its despatch to the transferee State and is not likely to lose its accuracy by reason of such despatch, it shall be known, for the purposes of this Chapter, as a weight or measure of the first category;

(b) it is required to be dismantled before its despatch to the transferee State and re-assembled and installed for use in the transferee State, it shall be known, for the purposes of this Chapter, as a weight or measure of the second category.

(2) Subject to the provisions of sub-section (1), the Central Government may specify, by rules made in this behalf, the classes of weights or measures which would fall in the first or in the second category.

(3) weight or measure of the first category shall, before it is, despatched to any transferee State, be produced before the local Inspector in the transferor State and if such Inspector is, after verification of such weight or measure, satisfied that such weight or measure conforms to the standards established by or under this Act, stamp the same with such special seal as may be specified by rules made under this Act.

(4) A weight or measure of the second category shall not be verified and stamped in the transferor State but shall be verified and stamped, after its re-assembly and installation for use, by the local Inspector in the transferee State.

(5) The fees for the verification and stamping of every weight or measure of—

- (a) the first category shall be levied by the transferor State;
- (b) the second category shall be levied by the transferee State,

in accordance with such scales as may be specified by rules made under this Act.

(6) No weight or measure, whether of the first or of the second category, shall be verified and stamped unless fees for such verification and stamping have been paid in accordance with the scales specified under sub-section (5).

42. (1) Every weight or measure of the first category which is stamped with the special seal referred to in sub-section (3) of section 41 shall be presumed to be correct throughout the territory of India and shall not be required, until its re-verification in the transferee State becomes due by efflux of time, to be verified or stamped in the transferee State :

Weight or measure of the first category to be presumed to be correct throughout the territory of India.

Provided that where the local Inspector in the transferee State has any reason to believe that such weight or measure has lost its accuracy in transit or has, for any other reason, ceased to conform to the standards of weight or measure established by or under this Act, he may, for reasons to be recorded by him in writing, and communicated to the Controller of the transferor State, through the Controller of the transferee State,—

- (a) verify such weight or measure; and
- (b) if, on verification, such weight or measure is found to be inaccurate,—
 - (i) cause such adjustment as is necessary to be made so as to make it conform to the standards established by or under this Act, or
 - (ii) where he is of opinion that such adjustment is not possible, reject it and obliterate the stamp thereon :

Provided further that where any verification, adjustment or obliteration is made in exercise of the powers conferred by the foregoing proviso, no fee shall be charged for such verification, adjustment or obliteration.

(2) In computing the time for the re-verification of a weight or measure of the first category, which is received in a transferee State, the period during which such weight or measure remains unsold or undistributed in the transferee State, shall be excluded.

Weight or measure of the first category not to be sold or used in any State unless it is stamped in the transferor State.

43. No weight or measure of the first category shall be used, sold, purchased, delivered or otherwise transferred in any transferee State unless such weight or measure bears thereon the stamp made with the special seal referred to in sub-section (3) of section 41.

Weights or measures of the second category received from transferor State to be produced before the local Inspector of the transferee State.

44. (1) Every person in a transferee State who receives or delivers for sale or use therein any weight or measure of the second category shall, after its re-assembly and installation for use, have such weight or measure verified and stamped by the local Inspector in the transferee State.

(2) The local Inspector in the transferee State shall verify every weight or measure of the second category and shall, if he is satisfied that such weight or measure conforms to the standards established by or under this Act, stamp the same with the seal prescribed by or under the State law in force in the transferee State.

(3) For the avoidance of doubt, it is hereby declared that where any weight or measure of the second category is received in a State from any other State, not for the purpose of sale or use therein but for the transmission of such weight or measure to any other State, then, such other State shall be deemed, for the purposes of this Chapter, to be the transferee State in relation to such weight or measure and the provisions of sub-section (1) and sub-section (2) shall apply accordingly.

Procedure when any weight or measure is transferred from a transferee State to another State.

45. Where any weight or measure, which being in use in a transferee State, is sent to, or delivered in, any other State for sale or use in such other State, than, such other State shall also be deemed to be the transferee State in relation to such weight or measure and the provisions of this Chapter shall, so far as may be, apply to the weight or measure sent to, or delivered in, such other State.

Manufacturer, etc., who sends any weight or measure to any other State to submit return to the Controller.

46. Every manufacturer, dealer or other person in a transferor State, who sends to, or delivers in, any transferee State any weight or measure, whether of the first or of the second category, shall—

(a) submit such periodical returns as may be prescribed, to the Controller of the transferor State with regard to such despatch, delivery or transfer and specify in such returns the particulars of the weight or measure which has been sent to, or delivered in, the transferee State;

(b) specify in such periodical returns the particulars of the person to whom such weight or measure has been sent, or delivered, in the transferee State; and

(c) forward a copy of such periodical returns to the Controller of the transferee State.

PART V

IMPORT AND EXPORT OF WEIGHTS AND MEASURES

CHAPTER I

Registration of exporters and importers

Persons exporting or importing any weight or measure to get themselves registered.

47. (1) No dealer or manufacturer shall export or import any weight or measure unless he is registered under this section as such exporter or importer, as the case may be.

(2) Every person who intends to commence or continue business as an exporter or importer of any weight or measure shall make,

within such time from the commencement of this Act as may be prescribed, an application for the inclusion of his name in the register to be maintained for the purpose.

(3) The application referred to in sub-section (2) shall be made to the Director and every such application shall be made in such form, in such manner and on payment of such fees, not exceeding ten rupees, as may be prescribed.

(4) On receipt of an application referred to in sub-section (2), the Director shall include the name of the applicant in the register referred to in sub-section (2) and issue to the applicant a certificate to the effect that his name has been so included and send a copy of the said certificate to the Controller of Legal Metrology in the State in which such exporter or importer is carrying on his business.

(5) A certificate granted under sub-section (4) shall be valid for the period specified therein and may be renewed, from time to time, for such further period as may be prescribed.

CHAPTER II

Export and import of weights, measures and commodities in packaged form

48. (1) Subject to such conditions, limitations and restrictions as may be prescribed, the Central Government may allow the export of any weight or measure which has been made or manufactured exclusively for export with the previous permission of that Government notwithstanding that such weight or measure does not conform to the standards established by or under this Act.

Conditions under which export of non-standard weights and measures and other goods may be made.

(2) Where any commodity in packaged form is exported and the person to whom such export is to be made so requires, the exporter may, in addition to specifying the net contents of such package in terms of the standards unit of weight or measure established by or under this Act, also specify the weight or the net contents thereof in terms of such units of weight or measure as may be specified by the person to whom such commodity is to be exported.

(3) Notwithstanding anything contained elsewhere in this Act, in relation to any goods which are exported—

- (a) quotation of any price;
- (b) issue of any price list, invoice or cash memo;
- (c) indication of the weight or measure or number of net contents of any package on any label, carton or other thing;
- (d) expression of any dimension,

may be made in accordance with any other system of weight, measure or numeration if the person to whom the export is to be made so requires.

49. (1) Save as otherwise provided in sub-section (2), no weight or measure, whether singly or as a part or component of any machine or machinery, shall be imported unless it conforms to the standards of weight or measure established by or under this Act.

Non-metric weight or measure not to be imported.

(2) Where any commodity machinery or any part or component of any machinery is imported from a country in which the metric system of weight or measure is not in force, or in which such system being in force, or such commodity, machinery, part or component of any machinery has not been made or manufactured in accordance with such system, the importer shall, before making such import, make an endeavour to obtain, on such commodity, machinery,

part or component, and also on the drawings thereof, the weight or measurement thereof expressed in terms of the standard unit of weight or measure established by or under this Act:

Provided that where any weight or measure has not been expressed in terms of the standard unit of weight or measure established by or under this Act, on any commodity, machinery, part or component or on any drawings thereof, the importer shall, within six months from the date of import, get the weight or measure thereof expressed on such commodity, machinery, part or component and on the drawings thereof in terms of the standard unit of weight or measure established by or under this Act.

PART VI

OFFENCES AND THEIR TRIAL

Penalty for use of non-standard weights or measures.

50. Whoever uses any weight or measure or makes any numeration otherwise than accordance with the standards of weight or measure or the standards of numeration, as the case may be, established by or under this Act, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, and, for the second or subsequent offence, with imprisonment for a term which may extend to two years and also with fine.

Penalty for contravention of section 18.

51. Whoever tampers with, or alters, in any way, any reference standard, secondary standard, or working standard except where such alteration is made for the correction of any error noticed therein on verification, shall be punished with imprisonment for a term which may extend to two years, or with fine which may extend to five thousand rupees, or with both.

Penalty for contravention of section 22.

52. Except where any weight or measure is made or manufactured, with the permission of the Central Government, exclusively for export, every person who makes or manufactures any weight or measure which does not conform to the standards of weight or measure established by or under this Act, shall, where such offence is not punishable under any other law relating to weights and measures for the time being in force, be punished with imprisonment for a term which may extend to one year, or with fine which may extend to two thousand rupees, or with both, and, for the second or subsequent offence, with imprisonment for a term which may extend to three years and also with fine.

Penalty for contravention of section 23.

53. Except where any weight or measure is made or manufactured, with the permission of the Central Government, exclusively for export, every person who makes or manufactures any weight or measure which bears thereon any inscription of weight, measure or number which does not conform to the standards of weight or measure established by or under this Act, shall, where such offence is not punishable under any other law relating to weights and measures for the time being in force, be punished with imprisonment for term which may extend to one year, or with fine which may extend to two thousand rupees, or with both, and, for the second or subsequent offence, with imprisonment for a term which may extend to three years and also with fine.

Penalty for contravention of section 29.

54. Whoever obstructs the Director or any person authorised to exercise the powers or discharge the functions of the Director (hereafter, in this Part, referred to as the "authorised officer") in the exercise of his powers or discharge of his functions as such Director or authorised officer, or with intent to prevent or deter the Director or such authorised officer from exercising his powers or discharging his functions, or in consequent of any thing done or attempted to be done by the Director or such authorised officer in the lawful exercise of his powers or discharge of his functions as such, shall be punished

with imprisonment for a term which may extend to two years, and, for the second or subsequent offence, with imprisonment for a term which may extend to five years.

55. Whoever, in the course of any inter-State trade or commerce, makes any transaction, deal or contract in contravention of the provisions of section 32 shall be punished with fine which may extend to two thousand rupees, and, for the second or subsequent offence, with imprisonment for a term which may extend to one year and also with fine. Penalty for contravention of section 32.

56. Whoever, in the course of any inter-State trade or commerce, contravenes the provisions of section 33 shall be punished with fine which may extend to two thousand rupees, and, for the second or subsequent offence, with imprisonment for a term which may extend to three years and also with fine. Penalty for contravention of section 33.

57. Whoever, in the course of any inter-State trade or commerce,— Penalty for contravention of section 34.

(i) sells, delivers, or causes to be sold or delivered, to the purchaser any quantity or number of any article or thing, less than the quantity or number contracted for or paid for; or

(ii) renders any service by weight, measure or number, less than the service contracted for or paid for; or

(iii) demands, or causes to be demanded, or receives, or causes to be received, while buying any article or thing, any quantity or number of goods in excess of the quantity or number contracted for or paid for; or

(iv) obtains any service in excess of the service contracted for or paid for,

shall be punished with fine which may extend to five thousand rupees, and, for the second or subsequent offence, with imprisonment for a term which may extend to five years and also with fine.

58. Whoever, being required by or under this Act so to do, without any reasonable excuse, omits or fails to maintain any record or register, or being required by the Director or the authorised officer, to produce any record or register for his inspection, omits or fails, without any reasonable excuse, so to do, shall be punished with fine which may extend to, one thousand rupees, and, for the second or subsequent offence, with imprisonment for a term which may extend to six months and also with fine. Penalty for contravention of section 35.

59. Whoever, being required by section 36 to submit the model of any weight or measure for approval, omits, or fails, without any reasonable excuse, so to do, shall be punished with fine which may extend to five thousand rupees, and, for the second or subsequent offence, with imprisonment for a term which may extend to five years and also with fine. Penalty for contravention of section 36.

60. (1) Whoever makes or manufactures any weight or measure which is, or is intended to be, sold, distributed, delivered or otherwise transferred in the course of inter-State trade or commerce, shall, unless a certificate of approval of the model of such weight or measure granted under section 36 is in force, be punished with imprisonment for a term which may extend to two years and shall also be liable to fine, and, for the second or subsequent offence, with imprisonment for a term which may extend to five years and also with fine. Penalty for manufacture of weights or measures unless approval of model is in force.

(2) Whoever, without any reasonable excuse, manufactures any weight or measure in accordance with an approved model with any material other than the material approved or recommended by the prescribed authority, shall be punished with imprisonment for a term which may extend to five years and also with fine.

Penalty for
contraven-
tion of sec-
tion 38.

61. Whoever makes or manufactures any weight or measure without complying with the requirements of section 38 shall be punished with fine which may extend to five thousand rupees, and, for the second or subsequent offence, with imprisonment for a term which may extend to five years and also with fine.

Penalty for
sale, etc., of
unverified
weights or
measures in
the course of
inter-State
trade or
commerce.

62. Whoever, in the course of inter-State trade or commerce, sells, distributes, delivers or otherwise transfers any weight or measure which does not conform to the standards of weight or measure established by or under this Act or which has not been duly verified under any other law relating to weights and measures for the time being in force, shall be punished with fine which may extend to ten thousand rupees, and, for the second or subsequent offence, with imprisonment for a term which may extend to seven years and also with fine.

Penalty for
contraven-
tion of sec-
tion 39.

63. Whoever, in the course of inter-State trade or commerce, sells, distributes, delivers or otherwise transfers, or causes to be sold, distributed, delivered or otherwise transferred any commodity in a packaged form which does not conform to the standards of weight or measure established by or under this Act shall be punished with fine which may extend to five thousand rupees, and, for the second or subsequent offence, with imprisonment for a term which may extend to five years and also with fine.

Penalty for
contraven-
tion of sec-
tion 47.

64. Whoever exports or imports any weight or measure without being registered under this Act shall be punished with fine which may extend to one thousand rupees, and, for the second or subsequent offence, with imprisonment for a term which may extend to six months and also with fine.

Penalty for
contraven-
tion of sec-
tion 48.

65. Every person who exports any weight or measure or commodity in packaged form which does not conform to the standards of weight or measure established by or under this Act shall, except where such export has been made with the previous approval of the Central Government, be punished with fine which may extend to five thousand rupees, and, for the second or subsequent offence with imprisonment for a term which may extend to five years and also with fine.

Penalty for
contraven-
tion of sec-
tion 49.

66. Whoever contravenes, without any reasonable excuse, the provisions of section 49, shall be punished with fine which may extend to five thousand rupees, and, for the second or subsequent offence, with imprisonment for a term which may extend to five years and also with fine.

Penalty
where no spe-
cific penalty
is provided.

67. Whoever contravenes any provisions of this Act for the contravention of which no punishment has been separately provided elsewhere in this Act, shall be punished with fine which may extend to two thousand rupees.

Presumption
to be made
in certain
cases.

68. (1) If any person, in the course of inter-State trade or commerce, uses, or causes to be used, sells, distributes, delivers or otherwise transfers, or causes to be sold, distributed, delivered or otherwise transferred, any false or unverified weight or measure, it shall be presumed, until the contrary is proved, that he had done so with the knowledge that the weight or measure was a false or unverified weight or measure.

(2) If any person makes or manufactures or has in his possession, custody or control any false or unverified weight or measure in such circumstances as to indicate that such weight or measure is likely to be used in the course of inter-State trade or commerce, it shall be presumed, until the contrary is proved, that such false or unverified weight or measure was made, manufactured, possessed, held or controlled by such person with the knowledge that the same would be, or is intended to be, used in the course of inter-State trade or commerce.

69. Whoever personates, in any way, the Director, or any authorised officer, shall be punished with imprisonment for a term which may extend to three years. Penalty for personation of officials.

70. (1) Whoever gives information to the Director or the authorised officer which he may require or ask for in the course of his duty and which such person either knows or has reason to believe to be false shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both. Penalty for giving false information or false returns.

(2) Whoever, being required by or under this Act so to do, submits a return which is false in material particulars, shall be punished with fine which may extend to two thousand rupees, and, for the second or subsequent offence, with imprisonment for a term which may extend to one year and also with fine.

71. (1) An authorised officer who knows that there are no reasonable grounds for so doing, and yet— Vexatious actions.

(a) searches, or causes to be searched, any house, conveyance or place; or

(b) searches any person; or

(c) seizes any weight, measure or other movable property, shall, for every such offence, be punished with imprisonment for a term which may extend to one year, or with fine which may extend to two thousand rupees, or with both.

(2) If a local Inspector, as defined in section 40,—

(a) wilfully verifies any weight or measure of first category, within the meaning of section 41,

(b) wilfully obliterates any stamp on any such weight or measure,

in contravention of the provisions of the first proviso to section 42, he shall, for every such offence be punished with imprisonment for a term which may extend to one year, or with fine which may extend to two thousand rupees, or with both.

5 of 1898. 72. Notwithstanding anything contained in the Code of Criminal Procedure, 1898,— Cognizance of offences, etc.

(a) no court shall take cognizance of an offence punishable under this Act except upon a complaint, in writing, made by the Director or any other authorised officer;

(b) no court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence under this Act;

(c) an offence punishable under section 50, section 52, section 53, section 56, section 58, section 60, section 61, section 63, section 64, section 65, or section 66, may be tried summarily by a magistrate and no sentence of imprisonment for a term exceeding

one year shall be passed in the case of any conviction for an offence which is summarily tried under this section.

Compound-
ing of offen-
ces.

73. (1) Any offence punishable under section 50, section 55, section 56, section 57, section 58, section 59, section 60, section 63, section 64, section 65, section 66 or section 67 may, either before or after the institution of the prosecution, be compounded by the Director or such other officer as may be specially authorised by him in this behalf, on payment for credit to the Government of such sum as the Director or such other officer may specify:

Provided that such sum shall not, in any case, exceed the maximum amount of the fine which may be imposed under this Act for the offence so compounded.

(2) Nothing in sub-section (1) shall apply to a person who commits the same or similar offence within a period of three years from the date on which the first offence, committed by him, was compounded.

Explanation.—For the purposes of this sub-section, any second or subsequent offence committed after the expiry of a period of three years from the date on which the offence was previously compounded, shall be deemed to be a first offence.

(3) Where an offence has been compounded under sub-section (1), no proceeding or further proceeding, as the case may be, shall be taken against the offender in respect of the offence so compounded, and the offender, if in custody, shall be discharged forthwith.

(4) No offence under this Act shall be compounded except as provided by this section.

Offences by
companies.

74. (1) If the person committing an offence under this Act is a company, every person who, at the time the offence was committed was in charge of, and was responsible to the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to the neglect on the part of, any director, manager, secretary or other officer, he shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

Provisions of
Indian Penal
Code not to
apply to any
offence under
this Act.

75. The provisions of the Indian Penal Code, in so far as such provisions relate to offences with regard to weights and measures, shall not apply to any offence which is punishable under this Act.

45 of 1860.

PART VII

TRAINING INSTITUTE

76. (1) There shall be established by the Central Government, at such place as it may think fit, an Institute to be known as the "Indian Institute of Legal Metrology" (hereafter referred to as the "Institute") for imparting training in legal metrology and other allied branches of knowledge. Establishment of a training Institute and provisions for training thereat.

(2) The management and control of the Institute, which shall vest in the Central Government, shall be carried on in accordance with such regulations as may be made by the Central Government.

(3) The Central Government shall provide the Institute with such teaching staff and other employees, and with such equipments and other facilities as it may think fit to enable the Institute to function effectively as an institution for imparting adequate training in legal metrology and other allied branches of knowledge.

(4) The courses and curricula for training at the Institute and the period for which the training may be imparted thereat for each course shall be such as may be prescribed.

(5) The Central Government shall prescribe the minimum qualifications which a person shall possess in order to be eligible for admission to the Institute for receiving training thereat and different qualifications may be prescribed for different courses of training imparted at the Institute.

(6) The Central Government and every State Government may depute, in such batches as may be convenient to the Institute, employees of, or above, the rank of an Inspector for receiving training at the Institute and the Central Government may also arrange for the training, at the Institute, of such other persons as it may think fit.

(7) The Institute may,—

(a) carry out such researches in legal metrology and other allied branches of knowledge as may be entrusted to it by the Central Government, and

(b) hold such seminars, meetings or other gatherings as it may think fit.

77. Where the Central Government is of opinion that in addition to the training imparted at the Institute, it is necessary to impart to an employee, not below the rank of an Inspector, further specialised training which is not provided for at the Institute, it may send such employee to such other place, authority or institution as it may think fit for receiving such specialised training. Training at other places.

PART VIII

MISCELLANEOUS

78. The Central Government shall make, or cause to be made, such surveys and collect, or cause to be collected, such statistics as it may consider necessary with a view to ascertaining the extent to which any standard of weight, measure or numeration established by or under this Act has been implemented in any area or in relation to any class of undertakings, users or goods and it shall be the duty of every person using weight or measure or making any numeration to render such assistance as the person making such survey or collecting such statistics may require. Survey and statistics.

Conversion
of non-metric
weights and
measures into
standard
units of wei-
ghts or meas-
ures.

79. (1) The value expressed in terms of any unit of weight or measure other than in terms of the standard units of weight or measure may be converted into the value expressed in terms of a standard unit of weight or measure at the rate specified in the Schedule.

(2) All references in any enactment or in any notification, rule or order made under any enactment, or in any contract, deed or other instrument, for the time being in force, to a value expressed in terms of any unit of weight, measure or numeration other than that of a standard unit of weight, measure or numeration shall be construed as references to that value expressed in terms of standard units of weight, measure or numeration, as the case may be, converted at the rates specified in the Schedule.

Non-metric
weight or
measure not
to be mentio-
ned in any do-
cument, etc.,
or to form
the basis of
any contract
after the
commence-
ment of this
Act.

80. (1) No unit of weight, measure or numeration shall, after the commencement of this Act, be stated in any enactment, notification, rule, order, contract, deed or other instrument in terms of any unit of weight, measure or numeration other than that of a standard unit of weight, measure or numeration.

(2) On and from the commencement of this Act, no weight, measure or number other than the standard weight, measure or number shall be used in, or form the basis of, any contract or other agreement in relation to any inter-State or international trade or commerce:

Provided that in relation to any goods which are exported, the weight, measure or number of such goods may be indicated thereon, or in any contract, in addition to the standard units of weight, measure or numeration, in accordance with any other system of weight, measure or numeration if the person to whom the export is to be made so requires.

(3) Any contract or other agreement in contravention of the provisions of sub-section (2) shall be void.

(4) No written record of the results of any measurement shall be maintained in any unit other than the standard unit of weight, measure or numeration established by or under this Act.

Appeals.

81. (1) Subject to the provisions of sub-section (2), any person aggrieved by an order made under section 30 or section 36 may prefer an appeal against such order to the Director, or where the order has been made by the Director, to the Central Government.

(2) Every such appeal shall be preferred within sixty days from the date on which the impugned order was made:

Provided that the appellate authority may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the said period of sixty days, permit the appellant to prefer the appeal within a further period of sixty days.

(3) On receipt of any such appeal, the appellate authority shall, after giving the parties to the appeal a reasonable opportunity of being heard and after making such inquiry as it deems proper, make such order, as it may think fit, confirming, modifying or reversing the order appealed against or may send back the case with such direction as it may think fit for a fresh order after taking additional evidence, if necessary.

(4) Every appeal shall be preferred on payment of such fee, not exceeding twenty-five rupees, as may be prescribed.

(5) The Central Government may, on its own motion or otherwise, call for and examine the record of any proceeding (including a proceeding in appeal) in which any decision or order has been made,

for the purpose of satisfying itself as to the correctness, legality or propriety of such decision or order and may pass such order thereon as it may think fit:

Provided that no decision or order shall be varied under this sub-section so as to prejudicially affect any person unless such person has been given a reasonable opportunity of showing cause against the proposed action.

82. (1) The Central Government may, by rules made under section 83, specify such fees, not exceeding—

(a) five thousand rupees, for the approval of the model of any weight or measure intended to be made or manufactured for sale, purchase, distribution or delivery in the course of any inter-State trade or commerce;

(b) one thousand rupees, for the verification and stamping of a weight or measure of the first category within the meaning of section 41;

(c) five thousand rupees, for the verification and stamping of a weight or measure of the second category, within the meaning of section 41;

(d) one rupee, for every 100 words or less, for the grant of copies of any document, not being a document of a confidential nature;

(e) ten rupees, for the registration of exporters or importers of weights and measures;

(f) twenty-five rupees, for any appeal preferred under this Act.

(2) No approval, verification or stamping shall be made, copy granted, registration made or appeal entertained unless the fee prescribed therefor under sub-section (1) has been paid.

83. (1) The Central Government may, by notification, make rules to give effect to the provisions of this Act.

Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) supplementary, derived, special or other units of weight or measure, standard symbols or definitions, as recommended by the General Conference of Weights and Measures or the International Organisation of Legal Metrology;

(b) multiples and sub-multiples of, and physical constants, ratios or co-efficients in relation to units of weight or measure, as recommended by the General Conference on Weights and Measures or the International Organisation of Legal Metrology;

(c) denominations of decimal multiples and sub-multiples of numerals and the manner in which they shall be written;

(d) periodical intervals at which the accuracy of the objects or equipments referred to in sub-section (1) or sub-section (2) of section 16 shall be certified.

(e) the manner in which and the conditions under which every national prototype, referred to in section 15, and every object or equipment referred to in section 16, shall be kept;

(f) the manner in which and the conditions under which every reference standard, secondary standard or working standard shall be kept;

(g) the place at which, the authority by which, the manner in which, and the periodical intervals at which every reference standard, secondary standard and working standard shall be verified and authenticated;

(h) the custody in which every reference standard, secondary standard or working standard shall be kept;

(i) the physical characteristics, configuration, constructional details, materials, equipment, performance, tolerances, methods or procedures of tests, in relation to weights or measures;

(j) the conditions, limitations and restrictions under which non-standard weights or measures may be manufactured for export or may be exported.

(k) the manner of disposal of any commodity which is subject to speedy or natural decay;

(l) class of goods or undertakings in relation to which, or class of users in relation to whom, no transaction, dealing or contract shall be made or had except by specified weight, measure or number;

(m) registers and records to be maintained by persons referred to in section 35;

(n) the authority to whom models are to be submitted for approval;

(o) the number of models, drawings and other information which are to be submitted for the approval of the model;

(p) the conditions under which the performance of any model is to be tested;

(q) the manner in which the number of model and certificate shall be inscribed on every weight or measure;

(r) the manner of declaration of the contents of a package and specification of the unit of weight, measure or number in accordance with which the retail sale price shall be declared on the package;

(s) the standard quantities or number in which commodities may be packed;

(t) the capacity up to which a package shall be filled;

(u) the reasonable variations in the net contents of a packaged commodity which may be caused by the method of packing or ordinary exposure;

(v) the classes of weights or measures which would fall in the first category or the second category;

(w) the special seal by which weights or measures of the first category shall be stamped;

(x) periodical returns to be submitted by every manufacturer, dealer or other person in a transferor State;

(y) the form and manner in which, and the time within which, applications for inclusion of a name in the register of exporters and importers of weights and measures shall be made;

(z) the period for which certificate of a registration of an exporter or importer of weights or measures may be renewed;

(za) the courses and curricula for, and the period of, training at the Institute;

(zb) the minimum qualifications for admission to the Institute;

(zc) the scales in accordance with which fees may be collected under section 82;

(zd) any other matter which is required to be, or may be, prescribed.

(3) In making any rule under this section, the Central Government may provide that a breach thereof shall be punishable with fine which may extend to two thousand rupees.

(4) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

89 of 1956. 84. (1) The Standards of Weights and Measures Act, 1956, is hereby repealed. Repeals and savings.

10 of 1897. 89 of 1956. (2) Without prejudice to the provisions contained in the General Clauses Act, 1897, with respect to repeals, any notification, rule or order made under the Standards of Weights and Measures Act, 1956, shall, if in force, at the commencement of this Act, continue to be in force and have effect as if made under the corresponding provision of this Act.

नमो भगवते वासुदेवाय

THE SCHEDULE

(See section 79)

(1) LENGTH :

1 inch	= 0.025 4 metre
1 foot	= 0.304 8 metre
1 yard	= 0.914 4 metre
1 mile	= 1 609.344 metres
1 nautical mile (UK)	= 1 853.18 metres

For Survey of India only

1 foot	= 0.304 799 6 metre
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(2) AREA :

1 square inch	= 0.000 645 16 metres ²
1 square foot	= 0.092 903 04 square metre
1 square yard	= 0.836 127 36 square metre
1 square mile	= 2 589 988.110 336 square metres

For Survey of India only

1 square foot	= 0.092.903 square metre
1 acre	= 4046.846 8 square metres
	= 0.404 684.58 hectare

(3) VOLUME :

1 cubic inch	= 0.000 160 387 064 cubic metre
1 cubic foot	= 0.023 316 846 592 cubic metre
1 cubic yard	= 0.764 554 857 984 cubic metre
1 gallon (UK)	= 0.004 546 087 cubic metre
1 gallon (USA)	= 0.003 785 411 784 cubic metre
1 bushel (USA)	
(2 150.42 cubic inches)	= 0.035 239 070 17 cubic metre
1 barrel (for petroleum)	= 0.158 987 294 928 cubic metre
1 acre-foot	= 1 233.482 cubic metres

(4) MASS :

1 grain	= 0.000 064 798 91 kilogram
1 tola	= 0.011 663 803 8 kilogram
1 seer	= 0.933 104 304 kilogram
1 maund	= 37.324 172 16 kilogram
1 ounce (troy)	= 0.031 103 476 8 kilogram
1 ounce (avoirdupois)	= 0.453 592 37 kilogram
1 hundredweight (UK)	= 50.802 345 44 kilogram
1 hundredweight (USA)	= 45.359 237 kilogram

1 ton (UK)	=	1 016·046 908 8 kilograms
1 ton (USA)	=	907·184 74 kilograms

(5) TEMPERATURE :

1 degree Fahrenheit (unit)	=	5/9 kelvin or degree (celsius)
temperature in degrees Fahrenheit	=	5/9 ($t^{\circ}\text{F} + 459\cdot67$) kelvins
($t^{\circ}\text{F}$)	=	5/9 ($t^{\circ}\text{F} - 32$) degree celsius

(6) FORCE :

1 pound-force	=	4·448 221 615 260 5 newtons
1 poundel	=	0·138 254 954 376 newton

(7) PRESSURE :

1 barometric inch of mercury	=	3 386·388 640 341 pascals
1 inch of water	=	249·088 91 pascals

(8) ENERGY :

1 British thermal unit	=	1 055·055 852 62 joules
1 foot-pound-force	=	1·355 817 948 331 400 4 joules

(9) POWER :

1 horse-power (UK)	=	745·699 871 582 270 22 watts
1 horse-power (European)	=	735·498 75 watts
1 ton of refrigeration	=	3516·852 842 67 watts

THE SECOND SCHEDULE

THE (NAME OF STATE) WEIGHTS AND MEASURES BILL, 1972

A

BILL

to provide for the enforcement of the standards of weights and measures established by or under the Central Act and for matters connected therewith or incidental thereto.

BE it enacted by the Legislature of the State of (Name of State) in the Twenty-third Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the (Name of State) Weights and Measures Act, 1972.

(2) It extends to the whole of the State of_____.

(3) It shall come into force on such date as the State Government may, by notification, appoint, and different dates may be appointed for different—

- (a) provisions of this Act,
- (b) areas,
- (c) classes of undertakings,
- (d) classes of goods,
- (e) classes of weights and measures, or
- (f) classes of users of weights and measures,

and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision in such areas, or in respect of such classes of undertakings, goods, weights and measures or users of weights and measures in relation to which this Act has been brought into force.

Act not to
apply to in-
ter-State
trade or
commerce.

2. Nothing in this Act shall apply to any inter-State trade or commerce in any weight or measure or in any other goods which are sold, delivered or distributed by weight, measure or number.

Definitions.

3. In this Act, unless the context otherwise requires,—

(a) “Additional Controller” includes a Joint Controller, Deputy Controller and an Assistant Controller appointed under section 5;

(b) “authorised seal or stamp” means a seal or stamp made under, and in accordance with, the provisions of this Act;

(c) “Central Act” means the Standards of Weights and Measures Act, 1972;

(d) “Controller” means the Controller of Legal Metrology appointed by the State Government under section 5;

(e) "counterfeit", in relation to a seal or stamp, means a seal or stamp which is so made as to resemble an authorised seal or stamp, as the case may be, intending by that resemblance to practise deception, or knowing it to be likely that deception will thereby be practised.

Explanation 1.—It is not essential that the resemblance of the counterfeit seal or stamp to the authorised seal or stamp should be exact.

Explanation 2.—When a person causes a counterfeit seal or stamp to resemble an authorised seal or stamp and the resemblance is such that if a person relies on such seal or stamp, he might be deceived thereby, it shall be presumed, until the contrary is proved, that the person so causing the seal or stamp to resemble the authorised seal or stamp intended by means of that resemblance to practise deception or knew it to be likely that deception would thereby be practised;

(f) "heap" means any unit of a commodity for sale where such sale is intended to be made without any weighment or measurement or, where the sale is made by number, without counting the number;

(g) "Inspector" means a person who is appointed as such under section 5, by whatever name called;

(h) "Mint" means a mint of the Central Government;

(i) "notification" means a notification published in the Official Gazette;

(j) "prescribed" means prescribed by rules made under this Act;

(k) "protection" means the utilisation of any weight or measure, or any reading obtained with the help of any weight or measure, for the purpose of determining whether or not any step is required to be taken to safeguard the well-being of any human being or animal, commodity, vegetation or thing, whether individually or collectively;

(l) "standard weight or measure" means a weight, measure or number which conforms to the standards established in relation thereto by or under the Central Act;

(m) words and expressions used in this Act and not defined but defined in the Central Act shall have the meanings respectively assigned to them in that Act.

4. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act and the Central Act or in any instrument having effect by virtue of any enactment other than this Act or the Central Act.

Provisions of this Act to override the provisions of any other law except the Central Act.

CHAPTER II

APPOINTMENT OF CONTROLLERS, INSPECTORS AND OTHER OFFICERS

5. (1) The State Government may, by notification, appoint a Controller of Legal Metrology for the State and as many Additional, Joint, Deputy or Assistant Controllers, Inspectors and other officers and staff as may be necessary for exercising the powers and efficiently discharging the duties conferred or imposed on them by or under this Act.

Appointment of Controllers, Inspectors and other officers and staff.

(2) Every Additional Controller, appointed under sub-section (1), shall exercise such powers, and discharge such functions, of the Controller, as the State Government may, by notification, authorise in this behalf.

(3) The Controller may, by general or special order, define the local limits within which each Additional Controller or each Inspector shall exercise the powers and discharge the duties conferred or imposed on him by or under this Act.

(4) Subject to the provisions of this Act, every Additional Controller and every Inspector shall perform his functions and discharge the duties of his office under the general superintendence, directions and control of the Controller and shall exercise those powers and discharge those duties in the same manner and with the same effect as if they had been conferred or imposed on him directly by or under this Act and not by way of authorisation.

(5) The Controller and every Additional Controller may also—

(a) perform all or any of the functions of, and

(b) exercise all or any of the powers conferred by this Act or any rule or order made thereunder, on,

an Inspector.

Power to
authorise
Inspector to
adjust weights
or measures.

6. Where the Controller is of opinion that it is necessary so to do, he may, by an order in writing, authorise an Inspector, or other officer not below the rank of an Inspector, to adjust any weight or measure in any area within the local limits of his jurisdiction.

Controller
and officers
appointed
under this
Act to be
public ser-
vants.

7. The Controller and every Additional Controller, and every Inspector and every other person authorised to perform any duty by or under this Act, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

Protection of
action taken
in good faith.

8. No suit, prosecution or other legal proceeding shall lie against the Controller, any Additional Controller, or any Inspector or any other person authorised to perform any duty by or under this Act in respect of anything which is in good faith done or intended to be done under this Act or any rule or order made thereunder.

CHAPTER III

GENERAL PROVISIONS IN RELATION TO STANDARD WEIGHTS AND MEASURES

Prohibition
of use of wei-
ghts and
measures
other than
standard
weights and
measures.

9. (1) Notwithstanding any custom, usage or method of whatever nature, no weight or measure other than the standard weight or measure shall be used or kept in any premises within the State ofin such circumstances as to indicate that such weight or measure is intended, or is likely, to be used for any weightment or measurement.

(2) Any custom, usage, practice or method of whatever nature which permits a person to demand, receive, or cause to be demanded or received, within the State of....., any quantity of article, thing or service in excess of, or less than, the quantity specified by weight or measure in the contract or other agreement in relation to the said article, thing or service shall be void.

(3) On and from the commencement of this Act, no weight, measure or number, other than the standard weight, measure or number, shall be used in, or form the basis of, any contract or other agreement in relation to any trade or commerce within the State of

(4) Any contract or other agreement, which contravenes the provisions of sub-section (3), shall be void.

10. (1) The State Government may, by rules made in this behalf, direct that in respect of the class of goods or undertakings or users specified therein—

Use of weights only or measures only in certain cases.

(a) no transaction, dealing or contract shall be made or had, or

(b) no industrial production shall be undertaken, or

(c) no use for protection shall be made, within the State of....., except by such weight, measure or number as may be specified in the said rules.

(2) Any rule made under sub-section (1) shall take effect in such area, from such future date and subject to such conditions, if any, as may be specified therein.

11. Except where he is permitted under the Central Act so to do, no person shall, in relation to any goods or things which are sold, transferred, distributed or delivered, or any service rendered, within the State of.....,—

Prohibition of quotations, etc., otherwise than in terms of standard units of weight, measure or numeration.

(a) quote, or make announcement of, whether by word of mouth or otherwise, any price or charge, or

(b) issue or exhibit any price list, invoice, cash memo or other document, or

(c) prepare or publish any advertisement, poster or other document, or

(d) indicate the contents of any package either on itself or on any label, carton or other thing, or

(e) indicate the contents on any container, or

(f) express, in relation to any transaction, industrial production or protection, any quantity or dimension,

otherwise than in accordance with the standard units of weight, measure or numeration.

CHAPTER IV

CUSTODY AND VERIFICATION OF STANDARD EQUIPMENTS

12. Every reference standard, supplied by the Central Government to the State Government, shall be kept at such place and in such custody as may be prescribed, and no such reference standard shall be deemed to be a reference standard and shall be used as such unless it has been verified and authenticated in accordance with the rules made under the Central Act.

Custody and verification of reference standards.

13. The State Government may cause to be prepared at a Mint as many sets of secondary standard or working standard, verified and authenticated by the Mint in such manner as may be specified under the Central Act, as it may think necessary:

Preparation of secondary and working standards.

Provided that where the Mint intimates the State Government in writing that it is unable to prepare secondary standard or working standard weight or measure, that Government may cause such secondary standard or working standard weight or measure to be prepared by such person as it may think fit and such secondary

standard or working standard weight or measure shall be verified and authenticated by such authority as may be specified by rules made under this Act and every such verification and authentication shall be made in the manner specified under the Central Act.

Verification,
Stamping
and custody
of secondary
or working
standards.

14. (1) Every secondary standard or working standard shall conform to the standards established by or under the Central Act and shall be verified with the reference standard or secondary standard, as the case may be, in such manner and at such periodical intervals as may be specified by or under that Act and shall, if found on such verification to conform to the standards established by or under that Act, be stamped.

(2) Where any secondary standard or working standard is stamped under sub-section (1), a certificate shall be separately issued showing the date on which such weight or measure was stamped.

(3) Every verification and stamping referred to in sub-section (1) shall be made by such person or authority as may be prescribed.

(4) A secondary standard or working standard which is not verified and stamped in accordance with the provisions of sub-section (1) shall not be deemed to be a secondary standard or working standard, as the case may be, and shall not be used for the verification of any working standard or, as the case may be, of any weight or measure, not being a national prototype or a reference standard or secondary standard.

(5) Every secondary standard shall be kept at such place and in such custody as may be prescribed.

Secondary or
working stan-
dard which
may not be
stamped.

15. Where the State Government is of opinion that by reason of the size or nature of any secondary standard or working standard, it is not desirable or practicable to put a stamp thereon, it may direct that instead of putting a stamp on such secondary standard or working standard, a certificate may be issued to the effect that such secondary standard or working standard conforms to the standards established by or under the Central Act and every secondary standard or working standard so certified shall be deemed to have been duly stamped under this Act on the date on which such certificate was issued.

*CHAPTER IVA

REGISTRATION OF USERS OF WEIGHTS AND MEASURES

Persons using
weights or
measures for
transactions
or industrial
production or
for protection
to get them-
selves regis-
tered.

15A. No person, not being an itinerant vendor, shall use any weight or measure in any transaction or for industrial production or for protection unless he is registered in accordance with the provisions of this Chapter.

Procedure of
registration.

15B. (1) Every person, who intends to commence or carry on the use of any weight or measure in any transaction or for industrial production or for protection, shall make, within such time as may be prescribed, an application for the inclusion of his name in a register to be maintained for the purpose (hereafter in this section referred to as the "register of users").

(2) The register of users shall be maintained in such form and in such manner as may be prescribed.

(3) The application referred to in sub-section (1) shall be made to the Controller or to such other person as the Controller may, by

*This additional Chapter is intended to be adopted by those States which intend to provide for the registration of users of weights and measures. In case this Chapter is adopted, such consequential changes as may be necessary shall be required to be made at the appropriate places.

general or special order, in writing, authorise in this behalf and every such application shall be made in such form, in such manner and on payment of such fees, not exceeding one rupee, as may be prescribed.

(4) On receipt of the application referred to in sub-section (1), the Controller or the person authorised by him shall include the name of such person in the register of users and issue to the applicant a certificate to the effect that his name has been so included.

(5) A certificate issued under sub-section (4) shall be valid for the period specified therein and may be renewed from time to time for such period and on payment of such fees, not exceeding one rupee, as may be prescribed.

15C. Whoever uses any weight or measure in any transaction or for industrial production or for protection shall, unless he is registered in accordance with the provisions of this Chapter, be punished with fine which may extend to five hundred rupees, and for the second or subsequent offence, with imprisonment for a term which may extend to six months, or with fine, or with both. Punishment for non-registration.

NOTE.—If this Chapter is adopted, then in sub-section (2) of section 69, after clause (e), the following clause shall be inserted, namely:—

- “(ce) the time within which an application referred to in sub-section (1) of section 15B shall be made,
- (cb) the form and manner in which the register referred to in sub-section (2) of section 15B shall be maintained,
- (cc) the form and manner of the application referred to in sub-section (1) of section 15B and the fees for the issue or renewal of any certificate of registration,
- (cd) the form of certificate to be issued under sub-section (4) of section 15B and the period for which such certificate shall be valid;”.

CHAPTER V

MANUFACTURE, REPAIR OR SALE OF WEIGHTS OR MEASURES

16. (1) No person shall make, manufacture, repair or sell any weight or measure unless he holds a valid licence issued in this behalf by the Controller authorising such person to do so: Prohibition on the manufacture, repair or sale of weight or measures without licence.

Provided that a person who *bona fide* repairs in his premises any weight or measure owned by him shall not be required to take out a licence referred to in this sub-section if he, in the opinion of the Controller,—

(a) has the technical competence and the necessary equipment to repair such weight or measure, or

(b) having the necessary equipment for the repair of such weight or measure in his possession, has persons in his employment who have the technical competence to repair such weight or measure.

(2) Every licence issued under this section—

(a) shall be in such form as may be prescribed,

(b) shall be issued on payment of such fees as may be prescribed,

(c) shall be valid for such period as may be specified therein,

(d) may be renewed from time to time, and

(e) may contain such conditions and restrictions as may be prescribed.

(3) Every licence issued under the (Name of State) Weights and Measures (Enforcement) Act, 19.....shall, if in force immediately before the commencement of this Act, continue to be in force until the expiry of the period of its validity or until the cancellation thereof, whichever is earlier, and may be renewed under this Act if an application for its renewal is made in the prescribed form at least one month before the expiry of the period of its validity.

(4) A person who intends to commence, after the commencement of this Act, business as a maker, manufacturer, repairer or seller of any weight or measure, shall make an application in such form as may be prescribed, for the issue of a licence and every licence so issued may be renewed if an application for its renewal is made in the prescribed form at least one month before the expiry of the period of its validity.

(5) The Controller may, if he is satisfied that the maker, manufacturer, repairer or seller, as the case may be, of any weight or measure was prevented by sufficient cause from making application for the renewal of his licence before the expiry of the period of the validity thereof, permit him to make the application within a further period of one month from the date of expiry of the said period on payment by him of such further fee, not exceeding the fee which is payable for the issue of the licence.

(6) On receipt of an application for the issue of a licence under this section, the Controller may, if he is satisfied, after making such inquiry as he may think fit, that the applicant fulfils the prescribed conditions, issue such licence:

Provided that no application for the issue of a licence shall be rejected unless the applicant has been given a reasonable opportunity of making representation against the proposed action.

(7) No application for the renewal of a licence issued under this section shall be rejected unless—

(a) the holder thereof has been given a reasonable opportunity of showing cause against the proposed action, and

(b) the Controller is satisfied that—

(i) the application has not been made within the time specified in this section, or

(ii) the applicant has made any statement in, or in relation to, the application for the issue or renewal of the licence which is incorrect or false in any material particular, or

(iii) the applicant has contravened any provision of the Central Act or any rule made thereunder or of this Act or any rule made thereunder.

(8) The Controller may require every repairer licensed under this Act to furnish to the State Government security for such sum, not exceeding two thousand rupees, as may be prescribed, to enable that Government to compensate any owner of weight or measure for any loss or damage occasioned by such repairer.

(9) Nothing in this section shall apply to the sale by a user (who is not a maker, manufacturer, dealer or repairer) of any weight or measure of such description as may be prescribed.

(10) Every licence issued or renewed under this Act shall be displayed in a conspicuous place in the premises where the licensee carries on his business.

17. (1) The Controller may, if he has any reasonable cause to believe that the holder of any licence issued, renewed or continued under this Act has made any statement in, or in relation to, any application for the issue or renewal of the licence which is incorrect or false in any material particular or has contravened any provision of the Central Act or any rule made thereunder or of this Act or any rule made thereunder, suspend such licence, pending the completion of any inquiry or trial against the holder of such licence: Suspension and cancellation of licence.

Provided that no such licence shall be suspended unless the holder thereof has been given a reasonable opportunity of showing cause against the proposed action.

(2) The Controller may, if he is satisfied after making such inquiry as he may think fit that the holder of a licence has made a false or incorrect statement of the nature referred to in sub-section (1), or has contravened any law referred to in that sub-section, cancel such licence:

Provided that no such licence shall be cancelled unless the holder thereof has been given a reasonable opportunity of showing cause against the proposed action.

(3) Every person whose licence has been suspended shall, immediately after such suspension, stop functioning as such licensee and shall not resume business as such licensee until the order of such suspension has been vacated.

(4) Every licensee whose licence has been suspended or cancelled shall, immediately after such suspension or cancellation, as the case may be, surrender such licence to the authority by which such licence was issued.

(5) Every licensee whose licence has been cancelled shall, within a period of thirty days from the date of such cancellation (or within such further period, not exceeding three months from such date, as the Controller may, on sufficient cause being shown, allow), dispose of the weights or measures which were in his possession, custody or control on the date of such cancellation, and in the event of his failure to do so, the Controller or any other officer authorised by him, in writing, in this behalf may seize and dispose of the same and distribute the proceeds thereof in such manner as may be prescribed.

18. Save as otherwise provided in the Central Act, no person shall— Manufacture of weights or measures.

(a) make or manufacture any weight or measure unless such weight or measure conforms to the standards established by or under the Central Act;

(b) make or manufacture any weight or measure with indications thereon of any weight or measure other than the units specified by or under the Central Act.

19. No weight or measure which is required by or under this Act to be verified and stamped shall be sold, used or kept for use unless it has been verified and stamped. Prohibition of sale or use of unstamped weights or measures.

20. (1) Every maker, manufacturer, repairer or dealer and every person using any weight or measure in any transaction or for industrial production or for protection shall maintain such records and registers as may be prescribed, and, if required so to do by an Inspector, shall produce such records and registers before the Inspector for inspection. Manufacturer, etc., to maintain records and registers.

(2) Notwithstanding anything contained in sub-section (1), if the Controller is of opinion that having regard to the nature or volume of the business carried on any maker, manufacturer, dealer, repairer or user of any weight or measure, it is necessary so to do, he may, by order, exempt such maker, manufacturer, dealer, repairer or user from the operation of that sub-section.

CHAPTER VI

VERIFICATION AND STAMPING OF WEIGHTS OR MEASURES

Verification
and stamp-
ing of weights
or measures.

21. (1) Every person having any weight or measure in his possession, custody or control in circumstances indicating that such weight or measure is being, or is intended to be, used by him in any transaction or for industrial production or for protection, shall, before putting such weight or measure into use, have such weight or measure verified at such place, and during such hours as the Controller may, by general or special order, specify in this behalf (hereinafter referred to as the specified place or specified time).

(2) Every weight or measure referred to in sub-section (1) shall be re-verified at such periodical intervals as may be prescribed.

(3) Every Inspector shall, for the purpose of verification of any weight or measure, attend the specified place (within the local limits of his jurisdiction) at the specified time and verify every weight or measure which is brought to him at such place and within such time and shall, if he is satisfied that such weight or measure conforms to the standards established by or under the Central Act, put his stamp thereon:

Provided that where any weight or measure is such that it cannot, or should not, be moved from its location, the Inspector shall take such steps for the verification of such weight or measure as may be prescribed.

(4) Where any verification has been made under sub-section (3), the Inspector shall grant to the person referred to in sub-section (1) a certificate in the prescribed form indicating therein the particulars of the weight or measure verified and stamped by him.

(5) Where the Controller is of opinion that by reason of the size or nature of any weight or measure, it is not desirable to put a stamp thereon, he may, by an order in writing, direct that instead of putting a stamp on such weight or measure, a certificate may be issued to the effect that such weight or measure conforms to the standards established by or under the Central Act and every weight or measure so certified shall be deemed to have been duly verified and stamped under this Act.

Display of
certificates of
verification.

22. Every certificate of verification granted under this Act shall be displayed in a conspicuous place in the premises where such weight or measure is being, or is intended to be, used in any transaction or for industrial production or for protection.

Validity of
weights or
measures
duly stamp-
ed.

23. (1) A weight or measure which is, or is deemed to be, duly verified and stamped under this Act shall be deemed to conform to the standards established by or under the Central Act at every place within the State of.....unless it is found on inspection or verification, that such weight or measure does not conform to the standards established by or under that Act.

(2) No weight or measure which is, or is deemed to be, duly verified and stamped under this Act shall require to be re-stamped merely by reason of the fact that it is being used at any place within

the territory of the State of.....other than the place at which it was originally verified and stamped:

Provided that where a verified weight or measure, installed at one place, is dismantled and re-installed at a different place, such weight or measure shall not be put into use unless it has been re-verified and stamped, notwithstanding that periodical re-verification of such weight or measure has not become due.

CHAPTER VII

INSPECTION, SEARCH, SEIZURE AND FORFEITURE

24. (1) An Inspector may, within the local limits of his jurisdiction, inspect and test, at all reasonable times, any weight or measure which—

Power to inspect.

- (i) is being, or is intended to be, used, or
- (ii) is in the possession, custody or control of any person, or
- (iii) is in or on any premises,

in such circumstances as to indicate that such weight or measure is being, or is intended or likely to be, used in any transaction or for industrial production or for protection, and may also verify whether such weight or measure is in conformity with the standards established by or under the Central Act.

(2) For the purpose of ascertaining the correctness of any weight or measure used in any transaction, any Inspector may also test the weight or measure of any article sold or delivered to any person in the course of such transaction.

25. (1) An Inspector may, if he has any reasonable cause to believe that an offence punishable under this Act has been, or is likely to be, committed in respect of any weight or measure or that any weight or measure does not conform to the standards established by or under the Central Act, require, at all reasonable times, the person having the custody or control of such weight or measure to produce before him for inspection every such weight or measure which—

Power of Inspector to require production of weight or measure or records for inspection.

- (i) is used by such person or is caused by such person to be used by any other person, or
- (ii) is in the possession, custody or control of such person for use, or
- (iii) is kept in or on any premises for use in any transaction or for industrial production or for protection.

(2) The Inspector may also require the production of every document or other record relating to the weight or measure referred to in sub-section (1) and the person first mentioned in that sub-section shall comply with such requisition.

(3) On inspection, whether under section 24 or under this section, the Inspector may obliterate the stamp on any weight or measure—

- (a) which does not, or cannot be made to, conform to the standards established by or under the Central Act:

Provided that where the Inspector is of opinion that the defect or error in such weight or measure is not such as to require immediate obliteration of the stamp, he shall serve a notice on the user of such weight or measure informing him of the defect or error found in the weight or measure and calling

upon him to remove the defect or error within such time, not exceeding eight days, as he may specify and shall—

(i) if the user fails to remove the defect or error within that period obliterate the stamp, or

(ii) if the defect or error is so removed as to make the weight or measure conform to the standards established by or under the Central Act, verify such weight or measure and put his stamp thereon;

(b) which does not admit of proper adjustment owing to its being broken, indented or otherwise defective;

(c) which, since the last verification and stamping, has been repaired or re-adjusted but does not, after such repair or re-adjustment conform to the standards established by or under the Central Act;

(d) which, being due for verification, has not been submitted for such verification.

Power of Inspector to enter premises.

26. (1) An Inspector may, if he has any reason to believe, whether from any information given to him by any person and taken down by him in writing or from personal knowledge or otherwise, that an offence punishable under this Act has been, or is likely to be, committed in relation to any weight, measure or other goods which are sold, delivered or distributed by weight, measure or number, enter, at all reasonable times, into any premises—

(i) where such weight or measure is used, or kept or believed to be kept for use, in any transaction or for industrial production or for protection,

(ii) where such goods are manufactured, packed, distributed or sold or kept or offered for sale in packaged form,

and inspect or verify any weight or measure or the net contents, by weight, measure or number, of any package, and may also examine any document or other record relating thereto.

(2) An Inspector may at all reasonable times enter into any premises for such purposes other than those specified in sub-section (1), as may be prescribed.

Power to search.

27. (1) Where the Controller has reason to believe that any weight or measure, liable to be seized under this Act, or any document or thing in relation to any weight or measure, will be, in his opinion useful for or relevant to, any proceeding under this Act, is secreted in any place, he may search or authorise any officer, not below the rank of an Inspector, to search for such weight or measure, document or thing, and the provisions of sections 102 and 103 of the Code of Criminal Procedure, 1898, shall apply to every such search.

5 of 1898.

(2) Every authorisation made by the Controller under sub-section (1) shall be deemed to be a warrant referred to in section 102 of the Code of Criminal Procedure, 1898.

5 of 1898.

Power of Inspector to seize any weight or measure.

28. (1) An Inspector may seize and detain any weight or measure in relation to which an offence under this Act appears to have been committed or which is likely to be used in the commission of such offence, and may also seize and detain any goods sold or delivered, or cause to be sold or delivered, by such weight or measure:

Provided that where any goods seized under this sub-section are subject to speedy or natural decay, the Inspector may dispose of such goods in such manner as may be prescribed.

(2) Where any weight or measure or any article is seized and detained under sub-section (1), the Inspector may also seize and detain any document or other record relating to such weight, measure or article.

29. If, on verification of any commodity in packaged form, the net weight, measure or number of commodity contained in the package or container is found to agree with the net contents thereof, as stated on the label thereon, the Inspector shall, where the person from whom such commodity was obtained for verification is—

Inspector to re-seal packages where net contents are found to have been correctly stated.

(a) the manufacturer or packer of such commodity, get the commodity re-sealed or re-packed, as the case may be, or

(b) a person who buys or sells such commodity, in whole-sale or retail, acquire such package or container on payment in cash to such wholesaler or retailer the market price of the commodity contained in such package or container.

30. Every false or unverified weight or measure seized under the provisions of this Act shall be liable to be forfeited to Government. Forfeiture.

CHAPTER VIII

PROVISIONS WITH REGARD TO COMMODITIES IN PACKAGED FORM SOLD OR DISTRIBUTED WITHIN THE STATE

31. (1) The provisions of the Central Act with regard to commodities in packaged form shall, as far as may be, apply to every commodity in packaged form which is distributed, packed, sold, kept, offered or exposed for sale in the State of.....as if those provisions were applicable to trade or commerce within that State subject to the modification that any reference therein to the Central Government and the Central Act shall be construed as references, respectively, to the State Government and this Act.

Provisions of the Central Act relating to packaged commodities to apply to packaged commodities sold or distributed within the State.

(2) An Inspector may, from time to time, inspect the weight or measure, or count the number, of the commodity contained in any package which is—

- (i) kept at any place where the commodity is packed, or
- (ii) kept, offered or exposed for sale, or
- (iii) sold, delivered, held in possession or is in the process of delivery,

within the State of.....with a view to determining whether the package contains the quantity or number of the commodity as specified on it or on the label thereon.

(3) Where the Inspector finds, after weighing, measuring or counting, that any package does not contain the quantity or number of the commodity, as specified on it or on the label thereon, or does not conform to the provisions of the Central Act or any rule or order made thereunder, he may seize such package and may also, by order, prohibit the sale of each package which is similar to the seized package and may so mark or seal each such package as to indicate clearly that the sale or delivery of such package has been prohibited, and no such package shall be sold or kept, offered or exposed for sale or delivery or otherwise disposed of unless—

(i) the contents of such package have been brought into conformity with the provisions of the Central Act or any rule or order made thereunder, by the manufacturer, packer or distributor thereof, or

(ii) the disposal thereof has been authorised by the Controller.

(4) No person shall keep in any place, where any transaction is made, any commodity in packaged form which is not for sale, and if any commodity in packaged form is kept in such place in contravention of the provisions of this sub-section, such commodity shall be presumed to have been kept in such place for sale.

CHAPTER IX

PROVISIONS WITH REGARD TO THE SALE OF COMMODITIES IN ANY OTHER FORM

Sale of commodities by number.

32. (1) Where the sale of any commodity is made by number and the number of the commodity delivered to the purchaser in pursuance of such sale is lesser than the number paid for, the seller shall be deemed to have used a false measure.

(2) Where, in relation to any commodity sold by number, there is a custom or usage of delivering a fixed number of such commodities in addition to the number of commodities paid for, such custom or usage shall, on and from the commencement of this Act, cease, and if the seller delivers to the purchaser the additional number of commodities in accordance with such custom or usage, he shall be deemed to have used a false measure and the purchaser shall be deemed to have abetted the use of such false measure.

Sale of commodities by heaps.

33. (1) Where any commodity is sold by heaps, the approximate weight, measure or the number of commodity contained in each heap shall be conspicuously announced by the seller or his agent, if any, either by word of mouth or by a written notice placed on each heap:

Provided that no such announcement shall be necessary in the case of a heap the market price of the contents of which does not exceed one rupee.

(2) Where, on weighment, measurement or counting of any commodity sold by heap, it is found that the weight, measure or number, determined by such weighment, measurement or counting is less than the approximate weight, measure or number announced by the seller or his agent and the deficiency is more than five per cent of such announced weight, measure or number, the seller shall be deemed to have used a false weight or measure.

CHAPTER X

OFFENCES AND PENALTIES

Penalty for manufacturing, etc., of non-standard weights or measures.

34. Whoever—

(a) makes or manufactures, or causes to be made or manufactured (except where he is permitted under the Central Act so to do), any weight or measure in accordance with any standards other than the standards established by or under the Central Act, or

(b) (i) sells or otherwise transfers, or causes to be sold or otherwise transferred, or

(ii) lets, or causes to be let, on hire,

any weight or measure which has been manufactured in accordance with any standards other than the standards established by or under the Central Act, shall be punished with imprisonment for a term which may extend to one year, and, for the second or subsequent offence, with imprisonment for a term which may extend to five years and also with fine.

35. (1) Whoever

Penalty for
counterfeiting
of seals, etc.

- (i) counterfeits any seal specified by or under this Act or the Central Act, or
- (ii) sells or otherwise disposes of any counterfeit seal, or
- (iii) possesses any counterfeit seal, or
- (iv) counterfeits any stamp whether made under this Act or the Central Act or any rule made under either of those Acts, or
- (v) removes any stamp made, whether under this Act or the Central Act or any rule made under either of those Acts, or tampers with any stamp so made, or
- (vi) removes any stamp made, whether under this Act or the Central Act or any rule made under either of those Acts, and affixes the stamp so removed on, or inserts the same into, any other weight or measure, or
- (vii) wilfully increases or diminishes or alters in any way any weight or measure with a view to deceiving any person or knowing or having reason to believe that any person is likely to be deceived thereby,

shall be punished with imprisonment for a term which may extend to two years, and, for the second or subsequent offence, with imprisonment for a term which may extend to five years and also with fine.

(2) Whoever obtains, by unlawful means, possession of any seal specified by or under this Act or the Central Act and uses, or causes to be used, any such seal for making any stamp on any weight or measure with a view to representing that the stamp made by such seal is authorised by or under this Act or the Central Act shall be punished with imprisonment for a term which may extend to two years, and, for the second or subsequent offence, with imprisonment for a term which may extend to five years and also with fine.

(3) Whoever, being in lawful possession of a seal specified by or under this Act or the Central Act uses, or causes to be used, such seal without any lawful authority for such use, shall be punished with imprisonment for a term which may extend to two years, and, for the second or subsequent offence, with imprisonment for a term which may extend to five years and also with fine.

(4) Whoever sells, offers or exposes for sale or otherwise disposes of any weight or measure which, he knows or has reason to believe, bears thereon a counterfeit stamp, shall be punished with imprisonment for a term which may extend to two years, and, for the second or subsequent offence, with imprisonment for a term which may extend to five years and also with fine.

36. (1) Except where he is permitted under the Central Act so to do, whoever sells, or causes to be sold, delivers, or cause to be delivered, any commodity, article or thing by any weight, measure or number other than the standard weight, measure or number, shall be punished with fine which may extend to two thousand rupees, and, for the second or subsequent offence, with imprisonment for a term which may extend to one year and also with fine.

Penalty for
sale or deli-
very of com-
modities,
etc., by non-
standard
weight or
measure.

(2) Whoever renders, or causes to be rendered, any service in terms of any weight, measure or number other than the standard weight, measure or number, shall be punished with fine which may extend to two thousand rupees, and, for the second or subsequent offence, with imprisonment for a term which may extend to one year and also with fine.

Penalty for keeping non-standard weights or measures for use and for other contraventions.

37. (1) Whoever keeps any weight or measure other than the standard weight or measure in any premises in such circumstances as to indicate that such weight or measure is being, or is likely to be, used for any—

- (a) weighment or measurement, or
- (b) transaction or for industrial production or for protection,

shall be punished with fine which may extend to two thousand rupees, and, for the second or subsequent offence, with imprisonment for a term which may extend to one year and also with fine.

(2) Whoever,—

(i) in selling any article or thing by weight, measure or number, delivers, or causes to be delivered, to the purchaser any quantity or number of that article or thing less than the quantity or number contracted for or paid for; or

(ii) in rendering any service by weight, measure, or number, renders that service less than the service contracted for or paid for; or

(iii) in buying any article or thing by weight, measure or number, receives, or causes to be received, from the vendor any quantity or number of that article or thing in excess of the quantity or number contracted for or paid for; or

(iv) in obtaining any service by weight, measure or number, obtains that service in excess of the service contracted for or paid for,

shall be punished with fine which may extend to five thousand rupees, and, for the second or subsequent offence, with imprisonment for a term which may extend to five years and also with fine.

(3) Whoever enters, after the commencement of this Act, into any contract or other agreement (not being a contract or other agreement for export) in which any weight, measure or number is expressed in terms of any standard other than the standard weight, measure or number established by or under the Central Act, shall be punished with fine which may extend to two thousand rupees, and, for the second or subsequent offence, with imprisonment for a term which may extend to one year and also with fine.

Penalty for contravention of section 10.

38. Whoever, in relation to any specified class of goods, undertakings or users of weights or measures, uses in any transaction or for industrial production or for protection, any weight, measure or number, other than the weight, measure or number specified by rules made under section 10, shall be punished with fine which may extend to two thousand rupees, and, for the second or subsequent offence, with imprisonment for a term which may extend to one year and also with fine.

Penalty for contravention of section 11.

39. Except where he is permitted under the Central Act so to do, whoever, in relation to any goods or things which are sold, transferred, distributed or delivered, or any service rendered,—

(a) quotes any price or charge, or makes any announcement with regard to the price or charge, or

(b) issues or exhibits any price list, invoice, cash memo. or other document, or

(c) prepares or publishes any advertisement, poster or other document, or

(d) indicates the weight, measure or number of the net contents of any package on any label, carton or other thing, or

(e) expresses in relation to any transaction, industrial production or protection, any quantity or dimension,

otherwise than in accordance with the standard units of weight, measure or numeration, shall be punished with fine which may extend to two thousand rupees, and, for the second or subsequent offence, with imprisonment for a term which may extend to one year and also with fine.

40. Whoever, being required to obtain a licence under this Act, makes, manufactures, repairs or sells any weight or measure, without being in possession of a valid licence, shall be punished with imprisonment for a term which may extend to one year, or with fine which may extend to two thousand rupees, or with both, and, for the second or subsequent offence, with imprisonment for a term which may extend to three years and also with fine. Penalty for contravention of section 16.

41. A licensee who after the suspension or cancellation of the licence issued, renewed or continued under this Act, omits or fails to stop functioning as a licensee under this Act, shall be punished with imprisonment for a term which may extend to one year. Penalty for contravention of section 17.

42. Except where he is permitted under the Central Act so to do, whoever makes or manufactures any weight or measure which,— Penalty for contravention of section 18.

(a) though ostensibly purports to conform to the standards established by or under that Act does not actually conform to the said standards, or

(b) bears thereon any indication of weight or measure which is not in conformity with the standards of weight or measure established by or under that Act, whether such indication is or is not in addition to the said standards,

shall be punished with imprisonment for a term which may extend to one year, or with fine which may extend to two thousand rupees, or with both, and, for the second or subsequent offence, with imprisonment for a term which may extend to three years and also with fine.

43. Whoever sells, uses or keeps for use any weight or measure which, being required to be verified and stamped under this Act, has not been so verified and stamped, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both, and, for the second or subsequent offence, with imprisonment for a term which may extend to one year and also with fine. Penalty for contravention of section 19.

44. Whoever, being required by section 20 to maintain any record or register, omits or fails to do so, or being required by an Inspector to produce any records or registers for his inspection, omits or fails to do so, shall be punished with fine which may extend to one thousand rupees, and, for the second or subsequent offence, with imprisonment for a term which may extend to one year and also with fine. Penalty for contravention of section 20.

45. Whoever, being required by section 21 to present any weight or measure for verification or re-verification omits or fails, without any reasonable cause, to do so, shall be punished with fine which may extend to five hundred rupees, and, for the second or subsequent offence, with imprisonment for a term which may extend to one year and also with fine. Penalty for contravention of section 21.

Penalty for
contraven-
tion of section
25.

46. Whoever, being required by an Inspector, or any person authorised by or under this Act to exercise the powers of an Inspector, to produce before him for inspection any weight or measure, or any document or other record relating thereto, omits or fails, without any reasonable cause, to do so, shall be punished with fine which may extend to one thousand rupees, and, for the second or subsequent offence, with imprisonment for a term which may extend to one year and also with fine.

Penalty for
contraven-
tion of section
26.

47. Whoever obstructs the entry of an Inspector, or any person authorised by or under this Act to exercise the powers of an Inspector, into any premises for the inspection or verification of any weight or measure or any document or other record relating thereto or the net contents of any packaged commodity or for any other prescribed purpose, shall be punished with imprisonment for a term which may extend to two years, and, for the second or subsequent offence, with imprisonment for a term which may extend to five years.

Penalty for
contraven-
tion of section
27 and 28.

48. Whoever prevents the Controller or any officer authorised by the Controller in this behalf, from searching any premises or from making any seizure of any weight, measure, packaged goods, document, record or label, shall be punished with imprisonment for a term which may extend to two years, and, for the second or subsequent offence, with imprisonment for a term which may extend to five years and also with fine.

Penalty for
contraven-
tion of section
31.

49. (1) Whoever manufactures, distributes, packs, sells or keeps for sale or offers or exposes for sale, or has in his possession for sale, any commodity in packaged form, shall, unless each such package conforms to the provisions of section 31, be punished with fine which may extend to five thousand rupees, and, for the second or subsequent offence, with imprisonment for a term which may extend to five years and also with fine.

(2) Whoever manufactures, packs, distributes or sells, or causes to be manufactured, packed, distributed or sold, any commodity in packaged form, knowing or having reason to believe that the commodity contained in such package is lesser in weight, measure or number than the weight, measure or number, as the case may be, stated on the label thereon, or it does not conform to the provisions of the Central Act or any rule or order made thereunder, shall be punished with imprisonment for a term which may extend to two years, or with fine which may extend to three thousand rupees, or with both, and, for the second or subsequent offence, with imprisonment for a term which may extend to five years and also with fine.

Penalty for
contraven-
tion of sec-
tion 32

50. Whoever is deemed under section 32 to have used, or abetted the use of, any false measure, shall be punished with imprisonment for a term which may extend to one year, or with fine which may extend to two thousand rupees, or with both, and, for the second or subsequent offence, with imprisonment for a term which may extend to five years and also with fine.

Penalty for
contraven-
tion of section
33.

51. Whoever sells any commodity by heaps without complying with the provisions of section 33, shall be punished with fine which may extend to one thousand rupees, and, for the second or subsequent offence, with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Penalty for
tampering
with licence.

52. Whoever alters or otherwise tampers with any licence issued or renewed under this Act or any rule made thereunder, otherwise than in accordance with any authorisation made by the Controller

in this behalf, shall be punished with fine which may extend to two thousand rupees, or with imprisonment for a term which may extend to one year, or with both.

53. Whoever sells, delivers or disposes of, or causes to be sold, delivered or disposed of, any weight or measure which has been rejected on verification under this Act or the Central Act, or any rule made under either of the said Acts, shall be punished with imprisonment for a term which may extend to one year, or with fine which may extend to two thousand rupees, or with both: Penalty for selling or delivering rejected weights and measures.

Provided that nothing in this section shall apply to the sale, as scrap, of any rejected weight or measure which has been defaced in the prescribed manner.

54. Whoever personates in any way the Controller or the Inspector or any other officer authorised by the Controller shall be punished with imprisonment for a term which may extend to three years. Penalty for personation of officials.

55. (1) Whoever gives information to an Inspector which he may require or ask for in the course of his duty and which such person either knows or has reason to believe to be false or does not believe to be true shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both. Penalty for giving false information or maintaining false records or registers.

(2) Whoever, being required by or under this Act so to do, maintains any record or register, which is false in any material particular, shall be punished with fine which may extend to two thousand rupees, and, for the second or subsequent offence, with imprisonment for a term which may extend to one year and also with fine.

56. (1) If any Inspector or any other officer exercising powers under this Act or any rule made thereunder wilfully verifies or stamps any weight or measure in contravention of the provisions of this Act or of any rule made thereunder, he shall, for every such offence, be punished with imprisonment for a term which may extend to one year, or with fine which may extend to two thousand rupees, or with both. Wilful verification or disclosure in contravention of law.

(2) If any Inspector or other officer who enters into any premises in the course of his duty wilfully discloses, except in the performance of such duty, to any person any information obtained by him from such premises with regard to any trade secret or any secret in relation to any manufacturing process, he shall be punished with imprisonment for a term which may extend to one year, or with fine which may extend to two thousand rupees, or with both.

57. An Inspector or any other officer exercising powers under this Act or any rule or order made thereunder who knows that there are no reasonable grounds for so doing, and yet— Vexatious search.

(a) searches, or causes to be searched, any house, conveyance or place, or

(b) searches any person, or

(c) seizes any weight, measure or other movable property,

shall, for every such offence, be punished with imprisonment for a term which may extend to one year or with fine which may extend to two thousand rupees, or with both.

Penalty for
contraven-
tions not sep-
arately pro-
vided for.

58. Whoever contravenes any provision of this Act for the contravention of which no punishment has been separately provided for in this Act, shall be punished with fine which may extend to two thousand rupees.

Presumption
to be made
in certain
cases.

59. (1) If any person—

(a) makes or manufactures, or causes to be made or manufactured, any false weight or measure, or

(b) uses, or causes to be used, any false or unverified weight or measure in any transaction or for industrial production or for protection, or

(c) sells, distributes, delivers or otherwise transfers, or causes to be sold, distributed, delivered or otherwise transferred, any false or unverified weight or measure,

it shall be presumed, until the contrary is proved, that he had done so with the knowledge that weight or measure was a false or unverified weight or measure, as the case may be.

(2) If any person has in his possession, custody or control any false or unverified weight or measure in such circumstances as to indicate that such weight or measure is likely to be used in any transaction or for industrial production or for protection, it shall be presumed, until the contrary is proved, that such false or unverified weight or measure was possessed, held or controlled by such person with the intention of using the same in any transaction or for industrial production or for protection.

When emp-
loyer to be
deemed to
have abetted
an offence.

60. (1) Any employer who knows or has reason to believe that any person employed by him has, in the course of such employment, contravened any provision of this Act or any rule made thereunder, shall be deemed to have abetted an offence against this Act:

Provided that no such abetment shall be deemed to have taken place if such employer has, before the expiry of seven days from the date—

(a) on which he comes to know of the contravention, or

(b) has reason to believe that contravention has been made,

intimated in writing to the Controller the name of the person by whom such contravention was made and the date and other particulars of such contravention.

(2) Whoever is deemed under sub-section (1) to have abetted an offence against this Act shall be punished with imprisonment for a term which may extend to one year, or with fine which may extend to two thousand rupees, or with both.

Explanation.—Dismissal or termination of service of an employee after the expiry of the period specified in the proviso to sub-section (1) shall not absolve any employer of his liability under this sub-section.

Offences by
companies.

61. (1) If the person committing an offence under this Act is a company, every person, who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any person liable to punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer, he shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

5 of 1898. 62. Notwithstanding anything contained in the Code of Criminal Procedure, 1898,— Cognizance of offences.

(a) no court shall take cognizance of an offence punishable under this Act except upon a complaint, in writing, made by the Controller or any other officer authorised in this behalf by the Controller by general or special order;

(b) no court inferior to that of a Presidency Magistrate or a Magistrate of the First Class shall try any offence under this Act;

(c) an offence punishable under section 34, 36, 37, 38, 39, 40, 43, 49, 50, 51 or sub-section (3) of section 69 may be tried summarily by a Magistrate and no sentence of imprisonment for a term exceeding one year shall be passed in the case of any conviction for an offence which is tried summarily under this section.

63. (1) Any offence punishable under section 37, 38, 39, 40, 42, 43, 44, 45, 46, 49, 51, 53, 58 or sub-section (3) of section 69 may either before or after the institution of the prosecution, be compounded, by the Controller or such other officer as may be authorised in this behalf by the Controller, on payment for credit to the State Government of such sum as the Controller or such other officer may specify: Compounding of offences.

Provided that such sum shall not, in any case, exceed the maximum amount of the fine which may be imposed under this Act for the offence so compounded.

(2) Nothing in sub-section (1) shall apply to a person who commits the same or similar offence within a period of three years from the date on which the first offence, committed by him, was compounded.

Explanation.—For the purpose of this sub-section, any second or subsequent offence committed after the expiry of a period of three years from the date on which the offence was previously compounded, shall be deemed to be a first offence.

(3) Where an offence has been compounded under sub-section (1), no proceeding or further proceeding, as the case may be, shall be taken against the offender, in respect of the offence so compounded, and the offender, if in custody, shall be discharged forthwith.

(4) No offence under this Act shall be compounded except as provided by this section.

Provisions of Indian Penal Code not to apply to any offence under this Act.

64. The provisions of the Indian Penal Code, in so far as such provisions relate to offences with regard to weights or measures, shall not apply to any offence which is punishable under this Act.

CHAPTER XI

MISCELLANEOUS

Transfer or transmission of business.

65. (1) Where the business of a person licensed under this Act is transmitted by succession, intestate or testamentary, the heir or legatee, as the case may be, shall not carry on the business of such licensee either in his own name or in any other name, unless the heir or legatee has, before the expiry of sixty days after the date of such transmission, made to the Controller an application for the issue of a licence in accordance with the provisions of this Act:

Provided that nothing in this section shall be deemed to prohibit the heir or legatee from carrying on business as such licensee for the aforesaid period of sixty days, and, if he has applied for such licence, until he is granted the licence, or is, by a notice in writing informed by the Controller that such licence cannot be granted to him.

(2) Where the business of any person licensed under this Act is transferred by sale, gift, lease or otherwise, the transferee or lessee, as the case may be, shall not carry on such business either in his own name or in any other name, unless he has obtained a licence to carry on such business.

Licences neither salable nor transferable.

66. A licence issued or renewed under this Act shall not be salable or otherwise transferable.

Appeals.

67. (1) Subject to the provisions of sub-section (2), an appeal shall lie—

(a) from every decision under Chapter IVA,* V, VI, VII, VIII or IX of this Act, of—

- (i) an Inspector,
- (ii) an Additional Controller,

to the Controller; and

(b) from every decision of the Controller under Chapter IVA*, V, VI, VII, VIII or IX of this Act, not being a decision made in appeal under clause (a),

to the State Government or any officer specially authorised in this behalf by that Government.

(2) Every such appeal shall be preferred within sixty days from the date of the decision appealed against:

Provided that the appellate authority may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the said period of sixty days, permit the appellant to prefer the appeal within a further period of sixty days.

(3) On receipt of any such appeal, the appellate authority shall, after giving the parties to the appeal a reasonable opportunity of being heard and after making such inquiry as it deems proper, make such order, as it may think fit, confirming, modifying or reversing the decision appealed against, or may send back the case with such direction as it may think fit for a fresh decision after taking additional evidence, if necessary.

*Optional.

(4) Every appeal shall be preferred on payment of such fees, not exceeding twenty-five rupees, as may be prescribed.

(5) The State Government may, on its own motion or otherwise, call for and examine the record of any proceeding (including a proceeding in appeal) in which any decision or order has been made, for the purpose of satisfying itself as to the correctness, legality or propriety of such decision or order and may pass such orders thereon as it may think fit:

Provided that no decision or order shall be varied under this sub-section so as to prejudicially affect any person unless such person has been given a reasonable opportunity of showing cause against the proposed action.

68. The State Government may, by rules made under section 69, Levy of fees, levy such fees, not exceeding—

(a) one hundred rupees, for the issue or renewal of a licence for making, manufacturing, repairing or selling any weight or measure,

(b) fifty rupees, for the alteration of any licence,

(c) five thousand rupees, for the verification of any weight or measure,

(d) ten rupees, for the adjustment of any weight or measure,

(e) ten rupees, for the issue of a duplicate of a licence or certificate of verification,

(f) one rupee, for every one hundred words or less, for the grant of copies of any document, not being a document of a confidential nature,

(g) twenty-five rupees, for any appeal preferred under this Act.

69. (1) The State Government may, by notification, make rules Power to make rules. to give effect to the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the class of goods, undertakings or users in relation to which no transaction, dealing or contract shall be made or had except by such weight, measure or number,

(b) the places at which, and the custody in which, the following standards shall be kept, namely:—

(i) reference standards;

(ii) secondary standards;

(iii) working standards;

(c) the person by whom or authority by which and the place at which the following standards shall be verified, authenticated and stamped, namely:—

(i) secondary standards;

(ii) working standards;

(d) the form in which and the manner in which an application shall be made for the issue or renewal of a licence to carry on business as a maker, manufacturer, repairer or dealer of any weight or measure;

(e) the form in which and the conditions, limitations and restrictions subject to which any licence may be issued and the period of validity of such licence;

(f) the sum to be furnished by a repairer as security by a licensee;

(g) the description of weight or measure which may be sold by a user;

(h) disposal of weights or measures after cancellation of licence and the distribution of the proceeds thereof;

(i) the records and the registers relating to weights or measures to be maintained by markers, manufacturers, repairers or dealers;

(j) the period within which weights or measures shall be verified or re-verified;

(k) the steps to be taken for verifying any weight or measure which cannot be moved from its location;

(l) the form in which a certificate of verification of any weight or measure shall be granted;

(m) subject to the provisions of section 26, the purposes for which an Inspector may enter any premises;

(n) the manner of disposal of seized articles which are subject to speedy or natural decay;

(o) manner of defacement of rejected weights or measures;

(p) the form in which appeals may be preferred and the procedure for the hearing of appeals;

(q) the amount of fees which may be levied and collected for each of the matters specified in section 68;

(r) any other matter which is required to be, or may be, prescribed.

(3) In making any rule under this section, the State Government may provide that a breach thereof shall be punishable with fine which may extend to one thousand rupees.

(4) The power to make rules under this section shall be subject to the condition of the rule being made after previous publication in the Official Gazette.

(5) Every rule made under this section shall, as soon as may be after it is made, be laid before the State Legislature.

Power of State Government to make provisions of Central Act relating to approval of models applicable to models of weights or measures intended to be used exclusively within the State.

70. (1) Where any type of weight or measure manufactured by a licensed manufacturer is such that all the weights or measures of that type manufactured by him within the State of.....is intended to be sold, distributed or delivered therein, the State Government may, by notification, direct that the model of every such type of weight or measure shall be submitted for approval in accordance with the provisions of sections 36, 37 and 38 of the Central Act, and thereupon, the provisions of the said sections 36, 37 and 38 shall become applicable to such model, and references in those sections to the "Central Government" and to the "Central Act" shall be construed as references respectively to the "State Government" and "this Act"

(2) Where the State Government makes a direction under subsection (1) in relation to any type of weight or measure, any contravention of the provisions of section 36, 37 or 38 of the Central Act-

in relation to that type of weight or measure shall be an offence punishable under this Act and the punishment provided therefor in the Central Act shall be deemed to be the punishment provided therefor in this Act as if the said provisions relating to punishments were enacted by this Act.

71. The provisions of this Act, in so far as they relate to the verification and stamping of weights or measures used for industrial production or for protection, shall not apply to any factory exclusively engaged in the manufacture of any arm, or ammunition, or both, for the use of the Armed Forces of the Union. Act where not to apply to the Armed Forces of the Union.

72. (1) The (Name of State) Weights and Measures (Enforcement) Act,.....is hereby repealed. Repeal and saving.

(2) Without prejudice to the provisions contained in the..... General Clauses Act,....., with respect to repeals, any appointment, notification, rule, order, registration, licence, certificate, notice, decision, approval, authorisation or consent made, issued or given, under the (Name of State) Weights and Measures (Enforcement) Act,shall, if in force at the commencement of this Act, continue to be in force and have effect as if made, issued or given under the corresponding provisions of this Act.



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APPENDIX A

STAGES IN WHICH THE 1956-ACT WAS BROUGHT INTO FORCE

Date from which Act was brought into force	No. and date of S.O. by which Act was brought into force	Substance of notification
(1)	(2)	(3)
1-7-1958	698 26-4-1958	Act was made applicable to the purchase of raw jute and jute products by jute mills.
1-7-1958	1033 30-5-1958	Act was made applicable to associations recognized by the Central Government in so far as they undertake the regulation and control of forward contracts in raw and manufactured jute.
1-10-1958	1250 24-6-1958	Units of mass made applicable to transactions involving sale and purchase of goods in certain areas, districts, cities and markets specified in the notification.
1-10-1958	1251 24-6-1958	<p>Act made applicable to classes of undertakings and classes of goods given below:—</p> <ol style="list-style-type: none"> (1) Air transport services (except distances and speed of air craft) by the Indian Airlines and Air India. (2) Government departments and commercial and Industrial undertakings owned or controlled by Government in so far as they undertake the purchase or supply of stores, including drugs. (3) Government departments in so far as they undertake survey of lands or mines. (4) Government departments in so far as they undertake the study or publication of any technical, scientific or marketing data relating to weather, irrigation and power projects or undertake drawings and specifications of scientific apparatus for use in laboratories and educational institutions except in matters relating to air distances and speed of air craft. (5) Cotton textile mills in so far as they undertake the purchase of cotton or sale of cloth. (6) Iron and steel factories in so far as they undertake the purchase of raw material or sale of iron and steel products. (7) Factories engaged in engineering industry in so far as they undertake the sale of their products. (8) Factories engaged in the manufacture of heavy chemicals in so far as they undertake the purchase of raw materials or sale of their products. (9) Factories engaged in the manufacture of cement in so far as they undertake the sale of cement.

(1)	(2)	(3)
		(10) Factories engaged in the manufacture of salt in so far as they undertake the sale of salt.
		(11) Factories engaged in the manufacture of paper, pulp or paper board in so far as they undertake the sale of paper, pulp or paper board.
		(12) Factories engaged in the manufacture of refractories in so far as they undertake the sale of refractories.
		(13) Coffee Board in so far as it undertakes the sale of coffee from the surplus pool either by itself or through its agents.
		(14) Factories engaged in the manufacture of copper, aluminium, lead, antimony and tin in so far as they undertake the sale of copper aluminium, lead, antimony and tin including alloys and products of these metals.
		(15) Association recognized by the Central Government in so far as they undertake the regulation and control of forward contracts in cotton.
		(16) Sale of raw rubber.
1-10-1958	2078 30-9-1958	Act made applicable to classes of goods and undertakings, in relation to the Union territory of Pondicherry specified in S.O. No. 1251 (referred to above).
1-10-1958	2079 30-9-1958	Units of mass made applicable to transactions involving sale and purchase of goods in the Union territory of Pondicherry.
15-12-1958	2627 6-12-1958	Units of mass made applicable to transactions involving sale and purchase of goods in the District of Darbhanga in the State of Bihar.
1-4-1959	613 28-2-1959	Act made applicable to cotton textile mills in so far as they undertake the sale of yarn and cotton textile products (other than cloth) or the stamping of cloth, yarn and other cotton products.
1-10-1959	1538 26-6-1959	Units of mass made applicable to transactions involving sale and purchase of goods in certain areas of the State of Bombay.
1-10-1959	1603 6-7-1959	Units of mass made applicable to transactions involving sale and purchase of goods in certain areas in the State of Kerala.
1-10-1959	1978 25-8-1959	(i) Act made applicable to factories engaged in the processing of coir yarn or the manufacture of coir products in so far as they undertake the purchase of coir or coir yarn or the sale of coir, their yarn and other products. (ii) Act also made applicable to Central Coir Co-operative Marketing Societies in so far as they undertake the purchase of coir or coir yarn or the sale of coir, coir yarn or other coir products.

(1)	(2)	(3)
1-11-1959	414 31-1-1959	Units of mass made applicable to Sugar factories in so far as they undertake the purchase of sugar cane or sale of sugar.
1-3-1960	421 10-2-1960	Act made applicable to tea factories in so far as they undertake the sale of manufactured tea or make payments to labourers for plucking tea leaves.
1-3-1960	478 18-2-1960	Act made applicable to crude petroleum and petroleum products produced, manufactured, distributed, bought or sold, whether by a producer, manufacturer or distributor or crude petroleum or petroleum products or to an agent, dealer or retailer engaged in buying and selling crude petroleum or petroleum products.
1-4-1960	1540 26-6-1959	Units of mass made applicable to the factories engaged in the manufacture of vanaspati in so far as they undertake the sale of vanaspati.
1-4-1960	1687 9-7-1959	Act made applicable to factories engaged in the manufacture of paints in so far as they undertake the sale of paints.
1-4-1960	1822 29-7-1959	Units of mass made applicable to factories engaged in the manufacture of biscuits in so far as they undertake the sale of biscuits.
1-4-1960	2253 25-9-1959	Units of mass made applicable to factories engaged in the manufacture of soap to the extent they undertake the purchase of raw materials for such manufacture and the sale of soap.
1-4-1960	2558 5-11-1959	Act made applicable to factories engaged in the manufacture of drugs in so far as they undertake the purchase of materials or sale of drugs.
1-4-1960	125 31-12-1959	Units of mass made applicable to transactions involving the purchase and sale of fertilizers.
		Act made applicable to the--
		(i) Calcutta Tea Traders Association and Cochin Tea Traders Association in so far as they regulate the auction in manufactured tea;
		(ii) Tea Board in so far as it undertakes the licensing of areas to be grown with tea, grant licences for exporting manufactured tea or keep statistics and accounts relating to the production and marketing of tea.
1-4-1960	553 25-2-1960	Act made applicable to the Indian Railways in so far as they undertake the transport of passengers, animals or goods. (Prior to the adoption of the metric system by the Indian Railways, rules were made for the conversion of miles into kilometres <i>vide</i> S.O. No. 2665, dated 23-11-1959.
1-4-1960	801 14-3-1960	Units of capacity made applicable to transactions involving sale and purchase of goods in the Union territory of Delhi.
1-4-1960	839 31-3-1960	Units of mass made applicable to the sale or purchase of goods throughout India except the State of Jammu & Kashmir.)

(1)	(2)	(3)
1-8-1960	1898 1-8-1960	Act was extended to the— (1) ports in respect of transactions involving the levy— (i) of shipping charges for services rendered, and (ii) of port dues on ships and on goods landed or shipped through the docks, jetties, bunders and inland wharves; (2) shipping industry in respect of transactions involving the levy of freight on cargo.
1-10-1960	1676 2-6-1960	Act extended to woollen mills in so far as they undertake the purchase of raw wool and sale of woollen products.
1-10-1960	2348 23-9-1960	The Customs Duties and Cesses (Conversion to Metric Units) Act, 1960, was brought into force, whereby that Act— (a) was extended to Customs and Central Excise Departments for the levy of duties of custom and Central excise; (b) became applicable to import and export control.
1-10-1960	2349 23-9-1960	The Standards of Weights and Measures (Amendment) Act, 1960 was brought into force.
1-1-1961	3115 22-12-1960	Act extended to undertakings engaged in the processing of tobacco leaf or the manufacture of tobacco, in so far as they undertake the sale or purchase of tobacco leaf or manufactured tobacco.
1-1-1961	3178 22-12-1960	Act was extended to— (1) motor transport undertakings in so far as they undertake the transport, by road of passengers, animals or goods; (2) undertakings engaged in the manufacture of motor vehicles or spare parts of motor vehicles in so far as they relate to the sale or purchase of motor vehicle or spare parts thereof; and (3) transactions involving the sale or purchase of motor vehicles or spare parts thereof.
1-4-1961	664 21-3-1961	Units of capacity made applicable to certain areas specified in the notification.
1-4-1961	732 29-3-1961	Act made applicable to the State of Jammu and Kashmir in relation to the classes of undertakings and the classes of goods specified in the notification.
1-4-1961	734 29-3-1961	Units of mass made applicable to the whole of the State of Jammu and Kashmir except the classes of undertakings or goods specified in S.O.No.732, dated 29-3-1961
1-5-1961	984 28-4-1961	Units of capacity extended to certain areas in the States of Uttar Pradesh and Madhya Pradesh.

(1)	(2)	(3)
1-6-1961	1219, 1221 and 1223 30-5-1961	Act was made applicable to the whole of India in respect of the sale of alcohol by undertakings manufacturing alcohol, levy of duties of excise by Departments of Government on alcohol, regulation and control by Departments of Government of the import, export, transportation, manufacture, possession or sale of liquids consisting of or containing alcohol and the levy of excise duty on such liquids.
1-10-1961	2142 30-8-1961	Units of capacity brought into force in the States and Union territories specified in the notification.
1-10-1961	2144 31-8-1961	Units of mass brought into force in the whole of India except the State of Jammu and Kashmir.
1-10-1961	2375 27-9-1961	Units of length brought into force in the whole of India except the State of Jammu and Kashmir.
1-4-1962	742 7-3-1962	Units of capacity brought into force in the whole of India except the State of Jammu and Kashmir.
1-4-1962	956 28-3-1962	Units of length made applicable throughout the Union territory of Pondicherry.
1-7-1962	1847 3-6-1962	Units of length made applicable to the whole of the State of Jammu and Kashmir.
1-8-1962	2374 24-7-1962	Units of capacity made applicable to the whole of the State of Jammu and Kashmir.
1-10-1962	2940 24-9-1962	Units of area brought into force in the whole of India except the Union territory of Pondicherry and the State of Jammu and Kashmir.
1-10-1962	2942 24-9-1962	Units of volume brought into force in the whole of India except the Union territory of Pondicherry and the State of Jammu and Kashmir.
1-12-1966	3661 29-11-1966	The whole Act was extended to the whole of India except the districts of Kohima and Mokokchung in the State of Nagaland.
1-9-1967	3085 31-8-1967	The whole Act was extended to the districts of Kohima and Mokokchung in the State of Nagaland.

APPENDIX B

LAWS RELATING TO WEIGHTS AND MEASURES IN FORCE IN OTHER COUNTRIES

1. ARAB REPUBLIC OF EGYPT

Weights and Measures Law, No. 229/1951 (dated 15th November, 1951).

2. AUSTRALIA

(a) Weights and Measures (National Standards) Act, 1960-66.

(b) Weights and Measures (National Standards) Regulations, as amended up to 1968.

(c) Weights and Measures (Pre-packed Articles) Act, 1967 (Victoria).

3. AUSTRIA

Law on Units of Measures and Legal Metrology.

4. BELGIUM

(a) Law on Units, Standards and Measuring Instruments (dated 16th June, 1970).

(b) Royal order partially implementing the Law of 16th June, 1971 on Units, Standards and Measuring Instruments and establishing legal units of measures and standards and the steps necessary to reproduce those units dated (14th September, 1970).

5. BULGARIA

Act on Weights and Measuring Devices, as amended up to 1952.

6. CANADA

The Weights and Measures Act (dated 20th June, 1951).

7. CEYLON

Weights and Measures Ordinance (No. 37 of 1946) as amended by Weights and Measures (Amendment) Act, No. 7 of 1971.

8. CHILE

Law on Weights and Measures (dated 29th January, 1948).

9. CUBA

Law No. 915 (dated 31st December, 1960):

10. CZECHOSLAVIA

Law on the Service of Metrology (dated 29th March, 1962).

11. DENMARK

Law on Weights and Measures (No. 65 of 28th February, 1950).

12. ETHIOPIA

Weights and Measures Proclamation, 1963 (No. 208 of 1963).

13. FEDERAL REPUBLIC OF GERMANY

- (a) Units of Metrology Act dated (2nd July, 1969).
- (b) Law on Metrology and Calibration (Calibration Law of 11th July, 1969)
- (c) Implementation Order to the Law on Units in Metrology (March, 1969).

14. FINLAND

- (a) Law on Units of Measures and Verification of Measuring Instruments (dated 14th April, 1965).
- (b) Decree on Units of Measures and Verification of Measuring Instruments dated (4th June, 1965).

15. FRANCE

- (a) Law of 4th July, 1937, modified, making the decimal metric system obligatory in France and envisaging the General Organisation for the control of Measuring Instruments.
- (b) Law of 2nd April, 1919, modified, on units of Measures.
- (c) Decree No. 61-501 of 3rd May, 1961, relating to units of measure and the control of Measuring Instruments.
- (d) Comments on decree No. 61-501, dated 3rd May, 1961.
- (e) Circular dated 29th December, 1961 regarding the application of decree No. 61-501, dated 3rd May, 1961.
- (f) Decree dated 30th November, 1944 containing the regulation of Public Administration regarding the Control of Measuring Instruments.
- (g) Order of 30th October, 1945 laying down the methods of application of certain provisions of the decree dated 30th November, 1944.
- (h) Order of 30th October, 1945, laying down the methods of application of certain provisions of the decree dated 30th November, 1944.

16. GERMAN DEMOCRATIC REPUBLIC

Decree concerning Physico-technical Units (of 14th August, 1958) (GBLIS 647).

17. HUNGARY

Decree on Legal Metrology (dated 18th November, 1960).

18. IRAN

- (a) Law on Weights and Measures (ratified on 8th January, 1932).
- (b) Regulation for Enforcement of Law on Weights and Measures (ratified on 3rd April, 1952).

19. IRELAND (EIRE)

Weights and Measures Act, 1936 (No. 8 of 1936).

20. ISRAEL

Palestine Weights and Measures Ordinance, 1947, as in force in Israel.

21. ITALY

- (a) Law on Weights and Measures (dated 23rd August, 1890, No. 7088 (series 3).
- (b) Law of 13th December, 1928 (No. 2886), Definition of Legal Units of Weights and Measures.
- (c) Legislative Decree of 21st March, 1948 (No. 370).

22. JAPAN
 - (a) Measurement Law (Law No. 207, dated 7th June, 1951).
 - (b) The Measurement Law Enforcement Law (Law No. 208, dated 7th June, 1951).
23. LEBANON

Law on Units of Measure and Control of Measuring Instruments, 23rd August, 1963.
24. NEPAL

The Standards of Weights and Measures Act, 2020.
25. NETHERLANDS

Law of 22nd April, 1937 containing new regulations in respect of Weights, Measures and weighing and measuring instruments (as amended up to 6th June, 1968).
26. NEW ZEALAND

The Weights and Measures Act, 1925 (as on 31st December, 1954).
27. NORTHERN RHODESIA

Weights and Measures Ordinance (dated 1st December, 1937, as amended up to 1955).
28. NORWAY

Law on Weights and Measures, (dated 31st October, 1946).
29. POLAND

Decree of 17th June, 1966 on Measures and Measuring Instruments.
30. PUERTO RICO

Weights and Measures Law of Puerto Rico (dated 13th June, 1958).
31. RUMANIA

Law No. 21—for the General Application of the Metric System.
32. SPAIN

Law of Weights and Measures of 8th November, 1967.
33. SOUTH AFRICA

Weights and Measures Act (No. 32 of 1922) (as amended up to 1940).
34. SOUTHERN RHODESIA

Weights and Measures Act (dated 1st May, 1925).
35. SWEDEN

Law on Measures and Masses (dated 11th May, 1934).
36. SWITZERLAND
 - (a) Federal Law on Weights and Measures (of 24 June 1909 as amended up to 1st January 1953).
 - (b) Various Ordinances issued under the Federal Law on Weights and Measures

37. UNITED KINGDOM

- (a) Weights and Measures Act, 1963.
- (b) Statutory Instruments issued under Weights and Measures Act, 1963.

38. UNITED STATES OF AMERICA

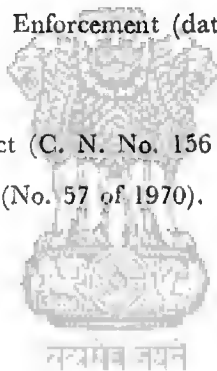
- (a) Federal and State Weights and Measures Laws (through 1949 Enactments) National Bureau of Standards Circular 501 (December, 1952).
- (b) Model State Law on Weights and Measures, Form 2 (Amendments through 1968), National Bureau of Standards.
- (c) Fair Packaging and Labelling (Public Law 89-755), approved on 3rd November, 1966.
- (d) Model State Packaging and Labelling Regulation of 1968, National Bureau of Standards.
- (e) Weights and Measures Labelling Handbook, National Bureau of Standards Handbook 108 (May, 1971).

39. VENEZUELA

Law on Measures and its Enforcement (dated 15th December, 1964).

40. ZAMBIA

- (a) Weights and Measures Act (C. N. No. 156 of 1960).
- (b) Metric System Act, 1970 (No. 57 of 1970).



APPENDIX C

MONETARY VALUE OF ANNUAL TRANSACTIONS

Transactions may be divided into three categories, from the point of view of the application of weights and measures laws:

- (i) a contract, whether by way of sale, purchase, exchange or otherwise;
- (ii) assessment of royalty, toll, duty or other dues; and
- (iii) assessment of work done or services rendered.

The more important activities covered under each category are:

- (i) retail and wholesale transactions;
- (ii) collection of duties, etc., and
- (iii) payment of wages, etc.

(i) RETAIL AND WHOLESALE TRANSACTIONS

(a) *Retail transactions*

No regular statistics are being collected either by the Government or by other agencies with regard to the annual value of the retail transactions carried out in India. In the absence of direct information, the available published data has been analysed to arrive at a rough value of the annual retail transactions carried out in India. The basic document used for estimating the total value of annual retail trade is the Survey Report of the Eighteenth Round carried out by the National Sample Survey during the period February, 1963 to January, 1964.* To evaluate retail trade dependent on weights and measures, the total cash purchase indicated in the Survey is equated with the retail trade. To obtain total cash purchases, the value of consumption of home-grown products is sub-tracted from the total consumer expenditure. The figures of total consumer expenditure, given in the Survey, refer to the prices prevailing in July, 1959 to June, 1960, and have been shown as such. In addition, those prices have been converted to 1970 prices by application of suitable factors and also shown in Table I. Tables I to III summarise the calculation of the value of annual retail transactions in India.

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*National Sample Survey, Eighteen Round (February, 1963—January, 1964)—No. 142, Tables with Notes on Consumer Expenditure (Preliminary) issued by the Cabinet Secretariat, Government of India, 1968.

TABLE I

Estimates of consumer expenditure and value of cash purchase per person for a period of 30 days by items of purchase in rural and urban areas.

(Item included under Sl. Nos. 1 to 6 are transacted on the basis of weights and measures).

Sl. No.	Item	Rural				Urban			
		Total Expenditure @ 1959-60 prices Rs.*	Cash purchase @ 1959-60 prices Rs.*	Total expenditure @ 1970 prices Rs.**	Cash purchase @ 1970 prices Rs.**	Total Expd. @ 1959-60 prices Rs.*	Cash purchase @ 1959-60 prices Rs.*	Total expd. @ 1970 prices Rs.**	Cash purchase @ 1970 prices Rs.**
(1)	Cereal and cereal substitutes	8.40	4.03	15.37	7.38	6.82	6.15	12.48	11.25
(2)	Pulses	0.76	0.42	1.39	0.77	0.88	0.84	1.61	1.54
(3)	Vegetables	0.46	0.33	0.84	0.60	1.03	1.01	1.88	1.85
(4)	Fruits and nuts	0.15	0.10	0.27	0.18	0.39	0.37	0.71	0.68
(5)	Meat, egg and fish	0.44	0.38	0.81	0.70	0.91	0.37	1.67	1.59
(6)	Food items other than cereals and milk and their products	4.03	3.15	7.38	5.76	7.61	7.44	13.93	13.62
TOTAL FOOD ITEMS		14.24	8.41	26.06	15.39	17.64	16.68	32.28	30.53
(7)	Clothing	1.76	1.76	3.20	3.20	1.70	1.70	3.09	3.09
(8)	Fuel and light.	1.20	1.20	2.18	2.18	1.72	1.72	3.13	3.13
TOTAL IN 30 DAYS		17.20	11.37	31.44	20.77	21.06	20.10	38.50	36.75
TOTAL IN 365 DAYS		209.26	138.33	382.52	252.70	256.22	244.54	468.41	447.31
(9)	Expenditure on rent, taxes, misc. for 30 days, not included above (3.48)	..	..	(6.33)	..	(7.45)	..	(13.56)	..

* National Sample Survey—Fifteenth Round (July, 1959—June, 1960) Number 104.

Tables with notes on consumer expenditure, issued by the Cabinet Secretariat, Government of India, 1966. Table I, presented above, is compiled from Tables 1.6.0, 1.8.0, 1.10.0, 1.11.0, 2.6.0, 2.8.0, 2.10.0 and 2.11.0. The value of consumption of home-grown stock has been deducted from the total consumer expenditure to arrive at the total cash purchase.

** The 1970 figures for consumer expenditure and cash purchase have been estimated on the basis of the *All India Working Class Consumer Index Numbers (Food and General)*, issued by the Labour Bureau, Simla.

TABLE II

Value of Annual Retail Transactions

Sl. No.	Item	Rural	Urban	Total
(1)	Annual per capita cash purchase at 1970 prices (in Rs.)*	252.70	447.13	..
(2)	Total population** (in millions)	448.5	98.5	547.0
(3)	Annual cash purchase at 1970 prices (in Rs. crores) for total population	11,334	4,405	15,739

*The figures are taken from Table 1

**Census of India, 1971, Series I, Paper I of 1971—

Provisional population Totals, issued by the Registrar General & Census Commissioner, India. The rural population is 82 per cent. of the total population according to the 1961 population census. The same ratio has been assumed to estimate the rural and urban break-up of 1971 population.

TABLE III

Annual Total Expenditure and Cash Purchase

Sl. No.	Item	Rural	Urban
(1)	Annual per capita cash purchase at 1970 prices (in Rs.) [Items (1) to (8) of Table I]	252.70	447.13
(2)	Annual per capita expenditure at 1970 prices* (in Rs.) [Items (1) to (9) of Table I]	459.54 (382.52 + 77.02)	633.39 (468.41 + 164.98)
(3)	Percentage of cash purchase to total expenditure: Sl. No. (1) to Sl. No. (2)	55	70
(4)	Annual per capita total expenditure Items (1) to (8) of Table I	382.52	468.41
(5)	Percentage ratio of Sl. No. (4) to Sl. No. (2)	83	74

*The figures of Rs. 6.33 and Rs. 13.56 are for 30 days. These have been converted to 365 days and added to Rs. 382.52 and Rs. 468.41 to arrive at annual per capita total expenditure at 1970 prices.

The annual total cash purchase or retail trade amounts to Rs. 11,334 crores in rural areas and Rs. 4,405 crores in urban areas, giving a total of Rs. 15,739 crores for India. Retail purchases constitute about 55 per cents of the total consumer expenditure in the rural areas, and about 70 per cent in the urban areas. Even if the purchaser is defrauded by one per cent through inaccurate weights and measures or inadequate legal supervision over their accuracy, the total loss to the consumer every year would be about Rs. 160 crores. Cheating upto 5 per cent which may not be easily noted under these conditions, would lead to an annual loss of Rs. 800 crores to the consumer, and Rs. 4,000 crores in a Five-Year Plan period.

(b) Wholesale transactions .

In the case of the wholesale transactions in foodgrains and farm produce, the study is restricted to such groups as cereals, pulses, oilseeds, fibres, vegetables, milk and milk products, sugarcane and the like which are usually sold by the farmer directly to an agent.

Groups like dyes and tanning materials, drugs and narcotics (including tea and coffee), spices and condiments, a large number of items under fruits and vegetables, by-products, meat and meat products, hides and skins, eggs and poultry meat, wool and hair, dung, increment in stock, other products and miscellaneous crops are not included in this analysis. Table I summarises the calculation of the value of annual wholesale transactions in India.

TABLE IV

Estimated value of important foodgrains and farm produce sold by farmers directly on the basis of weights and measures during 1969-70

Sl. No.	Item	Average price per tonne in 1960-61*	Index number of wholesale prices on** 26-12-70 (with base 1961-62: 100)	Average price per tonne in Dec. 1970	Production 1969-70† (in 000 tonnes)	Value of production in 1969-70 (Rs. crores)
1	2	Rs.	4	Rs.	6	7
(1)	Rice	562.25	188.4	1059.27	40,430	4,282.63
(2)	Wheat	405.40	207.2	839.99	20,093	1,687.79
(3)	Jowar	341.99	190.9	652.86	9,721	634.65
(4)	Bajra	409.12	147.8	604.68	5,327	322.11
(5)	Barley	305.15	167.7	511.74	2,716	138.99
(6)	Maize	327.22	162.9	533.04	5,674	424.67
(7)	Ragi	400.00	159.7	638.80	2,117	135.23
(8)	Small Millets	275.97	..	525.72	1,732	91.05
TOTAL CEREALS		..	190.5	..	87,810	7,717.12
(9)	Gram	353.84	220.4	779.86	5,546	432.51
(10)	Tur	357.55	318.7	1,139.51	1,842	209.90
(11)	Other pulses	371.56	as for total pulses	921.84	4,303	396.67
TOTAL PULSES		..	248.1	..	11,691	1,039.08
(12)	Linseed	677.98	268.8	1,822.41	415	75.63
(13)	Seasamum	1,101.42	as for total oilseeds	2,555.29	433	110.64
(14)	Groundnut	653.83	202.4	1,323.25	5,144	680.68
(15)	Rape and mustard	749.20	240.1	1,798.82	1,507	271.08
(16)	Castor	637.74	244.7	1,560.54	110	17.17
TOTAL OILSEEDS		..	232.0	..	7,609	1,155.20
(17)	Sugarcane	406.10	170.5	69.24	1,31,223	908.59
(18)	Kapas	954.71	242.2	2,312.30	5,233	1,210.03
(19)	Jute	191.94	142.5	273.51	5,609	153.41
(20)	Milk	514.57	210.8	1,084.71	11,792	1,279.09
(21)	Ghec	5,771.92	201.6	11,636.19	374	435.19
(22)	Vegetables ††	165.61	170.3	282.03	12,040	339.56
GRAND TOTAL		..	..	..	..	14,237.27

*Brochure on Revised Series of National Product for 1960-61 to 1964-65, issued by the Central Statistical Organisation, Department of Statistics, Cabinet Secretariat, Government of India, August, 1967.

**Index Number of Wholesale Prices in India (New Series) for week ended December 19 and 26, 1970—issued by the Office of the Economic Adviser, Ministry of Industrial Development, Internal Trade and Company Affairs, Government of India.

† Estimates of Area and Production of Principal crops in India, 1969-70, Summary Tables issued by the Directorate of Economics and Statistics, Ministry of Food, Agriculture, Community Development and Co-operation, Government of India, 1970.

†† Includes only potatoes, sweet potatoes and tapioca. The price indicated in column (3) is the arithmetic average for the three vegetables.

The estimated annual value of the items of foodgrains and farm produce analysed amounts to over Rs. 14,000.

Even if the peasant is defrauded by one per cent, through inaccurate weights and measures or inadequate legal supervision over their accuracy, the total loss to the peasant in his whole-sale transactions every year would be about Rs. 140 crores. According to many earlier reports on the marketing of foodgrains and farm produce, the peasant could be exposed to a loss of as much as 10 to 20 per cent. of his dues. Taking the lower estimate of 10 percent. loss, the annual loss to the peasantry of the country would be Rs. 1,400 crores and in a five year period such loss would amount to Rs. 7,000 crores.

If the annual losses in retail and wholesale transactions incurred by the poorer sections of society are added they would amount to Rs. 300 crores for one percent. inaccuracy in weights and measures. If the loss incurred in retail transactions is taken as 5 per cent and in whole-sale transactions at 10 per cent the total loss in a five year period would amount to Rs. 11,000 crores. This is of the order of half the investments proposed for the Fourth Five Year Plan. This tidy sum also dramatically emphasises the erosion of the purchasing power of the common man. It shows how social and economic justice would become meaningless if the standardization and implementation of weights and measures laws are not properly looked after by the Central and State Governments.

(ii) COLLECTION OF DUTIES

So far we have discussed the monetary magnitude of the retail and wholesale transactions in the country and the effect of lack of control on weights and measures on the common man's expenditure. We shall now explore the field of collection of duties and royalties.

Duties like customs, excise, octroi and some types of cesses, and royalties, are often collected by the Central and State Governments, corporations, municipalities statutory bodies and the like, directly on the basis of weights and measures. Even where duties are charged on *ad valorem* basis, the primary calculations are often based on a unit of weight or measure.

The total import duties collected by the Government of India during 1969-70* totalled about Rs. 368 crores, export duties amounted to about Rs. 75 crores, the gross total being over Rs. 443 crores. The gross Union Excise duties collected during 1969-70, were over Rs. 1,506 crores, the grand total of gross customs and excise duties collected by the Union being about Rs. 1,955 crores. The major portion of these duties was collected on the basis of weights and measures.

We may examine the position of collection of duties in the States. According to the budget estimates for 1969-70** the State excise duties amounted to Rs. 305.31 crores. Eighteen municipal corporations collected octroi duties totalling Rs. 22.85 crores in 1967-68. The total number of corporations in 1967-68 was 29. The estimates of total octroi duties collected by the 29 corporations could broadly be fixed at Rs. 35 crores. The figures for payment of royalties are not available, but a few tens of crores of rupees should have been earned through royalties on minerals, petroleum, etc., or paid in foreign exchange to other countries as a result of industrial collaborations, the royalty being calculated on the basis of quantity of production estimated in units of weights and measures.

It would thus be seen that the total collections by way of customs and excise duties, octroi and royalties would amount to over Rs. 3,000 crores annually. For every one per cent. loss due to inaccuracy of weights and measures the loss to the exchequer would be about Rs. 30 crores annually.

(iii) PAYMENT OF WAGES

There are many jobs in which wages of labour are paid on the basis of weights and measures. For example, in rural areas, landless labour is employed for harvesting. They are paid either in cash or in kind. Cash payments are made on the basis of the quantity of harvest cut. Payment in kind is made on the basis of quantity by weight or measure of the

*Customs and Excise Revenue Union Statement of the March 19, published by the Department of Commercial Intelligence and Statistics, Government of India.

**Statistical Abstract of the Indian Union, 1969, published by the Central Statistical Organisation, Department of Statistics, Government of India.

commodity cropped or in terms of some other commodity. Statistics of such payments are not available. India is an agricultural country where over 80 per cent of the population is engaged in agriculture. According to the 1961 census, the total number of workers is 188 million, of which 31 million are agricultural labourers.

Agricultural labourers are employed only for a part of the year. Even at a conservative estimate of Rs. 200 as their annual income, the wages paid to 31 million workers would amount to Rs. 620 crores. Like the peasant who sells his farm produce in the market, the agricultural labourer is likely to be subjected to numerous malpractices. Every one per cent defrauding on account of unfair weighing and measuring would deprive him of Rs. 6 crores annually.

Besides landless labour, there are several other categories of workers who are paid their wages on the basis of direct or indirect weightment or measurement of the results of their work. Coal miners, plantation workers, certain categories of building construction workers and a host of others could be included in this category. For example, the Indian Labour Statistics (1970),* indicates that 3,95,364 coal miners earned a weekly wage of Rs. 49.77 each giving a total of Rs. 100 crores per year in wages. The miners' wages are related to the weight or the volume of the coal mined or handled. The importance of accurate weights and measures in this case is obvious.

Another instance is of plantation workers. In 1967, the tea plantations employed 7,77,000 workers, coffee plantations 2,36,000 workers (in 1965) and rubber plantations 1,35,000 workers, giving a total of 11,48,000 workers. The weekly earnings of plantation workers were about Rs. 15. The total annual payments to all the plantation workers works out to about Rs. 90 crores. The plantation workers are paid on the basis of weight of leaves or beans plucked. The rubber content of the latex tapped, which requires the use of weights and measures, forms the basis of payment of rubber workers.

If we take into account the statistics of only coal miners and plantation workers leaving out agricultural labourers, the total annual wages work out to over Rs. 200 crores. If we include the much larger section of agricultural labour, the money paid annually as wages would perhaps run into nearly Rs. 800 crores or more. Where such huge sums are involved, the absence of efficient legal control on weights and measures could lead to many disputes between labour and employers.

In this section, which analysis the influence of weights and measures on commercial transactions. A few major activities in this field, namely, retail transactions, wholesale transactions in foodgrains and farm produce, collection of duties, and payment of wages have been examined. These transactions, which include only a portion of the total economic transactions, involve the transfer of over Rs. 40,000 crores annually at various stages through the medium of weights and measures. The figures would increase substantially if all the transactions were to be considered. For example, purchase of raw materials and sale of products by industries has been largely excluded from the calculations. Monetary share contributed by transportation by road, rail, sea and air, by sale of water through water meters, electricity through electric meters, gas through gas meters, or money earned through hire of taxi, rickshaw or bus by meter and many such activities has not been taken into account.

It is obvious that even for the activities analysed for every one per cent inaccuracy tolerated, Rs. 400 crores go annually to the sections of society which exploit the general public.

In the context of the Indian economy, the impact of weights and measures on prices is also worth examining. Price is, in effect, an amount of money paid for a certain quantity of a commodity or product of a particular quality. Quantity is judged directly in terms of weights and measures, while quality is established indirectly by carrying out measurements to determine the desired characteristics. If, therefore, enforcement of weights and measures is either absent or weak, price regulation can be easily set at naught by tampering with the quantity as well as quality.

**Indian Labour Statistics, 1970*, published by the Labour Bureau, Department of Labour and Employment Ministry of Labour, Employment and Rehabilitation, Government of India.

In the field of exports also weights and measures have a significant role. The foreign buyer who is well-versed in weights and measures practices, would not tolerate inaccuracies of weights and measures in the commodities supplied to him. If, therefore, India is keen to establish long-term export markets, other countries should be assured that there is adequate machinery within this country to effect control over weights and measures. Inaccurate weights and measures of commodities supplied could easily become a potent cause for disputes. It is desirable that control on quantity should be effected as in the case of the quality of goods exported. Overinvoicing and underinvoicing are, in effect, manipulation of the elements of a price, namely, money, quality and quantity.

It should also be noted that trade and commerce are fast becoming modernised and sophisticated. The modern instruments for weighing and measuring give more accurate and quick results, but at the same time they require constant attention to maintain their accuracy, because of their complicated and delicate mechanisms. Greater vigilance, has therefore to be exercised for better enforcement in future, if we are to reap the fruits of modernisation. The control of weights and measures is a continuing need. Relaxation of vigilance would immediately lead to many malpractices, which as we have shown earlier, would be detrimental to the interests of the vast masses of people.



सत्यमेव जयते

APPENDIX D

LIST OF WORKING GROUPS OF INTERNATIONAL ORGANISATION OF LEGAL METROLOGY (OIML)

(As on October, 1972)

(Total Working Groups—69)

**India participating actively in these Working Groups through Directorate of Weights and Measures.*

SUBJECTS

Secretariat Reporter

A. General Metrology

- | | |
|---|---------|
| * (1) General principles of legal metrology | BIML |
| * (2) Vocabulary of legal metrology, fundamental terms | Poland |
| * (3) Teaching of legal metrology | France |
| * (4) Metrological documentation | BIML |
| * (5) Equipment used in legal metrology offices | India |
| (6) Instructions on verification of measuring instruments | Rumania |

B. Systems of units of measurement

- | | |
|---|----------|
| * (1) Units of measurement | Austria |
| * (2) Model scheme of hierarchy of national standards | U.S.S.R. |

C. Metrological laws and rules

- | | |
|---|-------------------------|
| * (1) Rules for governing measuring instruments by legal control | France |
| * (2) Definition and mode of approval of types, models, systems of measuring instruments. | France |
| * (3) Different classes of precision of measuring instruments | U.S.S.R. |
| * (4) Legal precision of measurements made by a controlled instrument. | Spain |
| * (5) Stamping and marking of measures and measuring instruments | Rumania |
| * (6) Control by sampling | Spain & United Kingdom. |

D. Measurement of length

- | | |
|---|------------------------------|
| * (1) Metres and double metres | Belgium |
| * (2) Tape or wire measures for long lengths | Hungary |
| * (3) Taximeters | Federal Republic of Germany. |
| * (4) Instruments for measuring length of fabrics, cables and wires | France |
| * (5) Linear measures with flat ends (calibration standards) | U.S.S.R. |

E. Measures for volumes of liquids

- | | |
|--|----------------|
| (1) Measurement of volumes in laboratories | United Kingdom |
| (2) Butyrometers | Belgium |
| (3) Medical syringes | Austria |
| (4) Bottles used as container measures | France |

(5) Drinking glasses	Switzerland
* (6) Watermeters	Spain & U.K.
* (7) Dispensers and meters for liquids other than water	Federal Republic of Germany & France.
* (8) Measurement of hydrocarbons in storage tanks in free air	} France & Rumania
* (9) Measurement of hydrocarbons in reservoirs under liquid and gaseous phases.	
* (10) Measurement of hydrocarbons in tank lorries and tank wagons	
* (11) Measurement of hydrocarbons in tankers and ships	
* (12) Measurement of hydrocarbons distributed by pipelines	} Czechoslovakia
* (13) Methods of control of distribution by pipelines	
* (14) Barrels and caskets	Austria

Fg. Measurement of volumes of gases

* (1) Gasmeters with diaphragms	Netherlands
* (2) Gasmeters with rotating pistons and non-volumetric gas meters	} Federal Republic of Germany.
* (3) Differential pressure meters	

G. Measurement of masses

* (1) Normal mass of bodies and of weights	BIML
* (2) Weights used in industrial and commercial transactions	Belgium
* (3) Weights for laboratories and for precision measurements	Belgium
* (4) Weights of ordinary class of precision	U.K.
* (5) Weighing instruments with automatic equilibrium	Federal Republic of Germany & France.
* (6) Weighing instruments with non-automatic equilibrium	France & Federal Republic of Germany.
* (7) Weighers of packets and sacks	U.K.
* (8) Weighing instruments with continuous totalling device	U.K.
* (9) Balances for precious stones and materials	Czechoslovakia
* (10) Mass standards for control of high capacity weighing instruments.	France & Federal Republic of Germany.

Gv. Measurement of volume masses

(1) Hydrometers and alcoholometers	France
(2) Polarimetric saccharimeters	Federal Republic of Germany.

J. Measurement of Linear Velocity

* (1) Measuring the speed by Doppler effect (control of road automobile traffic).	Switzerland
* (2) Mechanical or electromechanical meters for speed of automobiles.	Poland

M. *Measurement of forces*

- (1) Dynamometers for heavy loads Austria

N. *Measurement of pressures*

- * (1) Manometers and vacuumeters U.S.S.R.
 (2) Manometers of instruments for the measurement of blood pressure. Austria

P. *Measurement of temperatures*

- (1) Clinical thermometers Federal Republic of Germany.
 (2) Optical pyrometers U.S.S.R.
 (3) Electrical resistance and couple thermometers U.S.S.R.

Qc. *Measurement of electrical energy*

- * (1) Domestic electricity meters U.S.S.R. & France
 * (2) Industrial electricity meters U.S.S.R. & France
 (3) Wattmeters and standard meters Switzerland & Spain.

Qc. *Measurement of heat energy*

- (1) Calorimeters Federal Republic of Germany.

S. *Measurement of electric and magnetic quantities*

- (1) Instrument transformers Federal Republic of Germany.

T. *Acoustical measurements*

- (1) Measurement of sounds and noises Switzerland

U. *Measurement of optical phenomena of light*

- (1) Dioptrimeters Hungary

W. *Measurement of radioactivity*

- * (1) Dosimetry and protection Switzerland

X. *Measurement of pollutions and mixtures*

- (1) Instruments for measuring air pollution Monaco

Y. *Measurements of characteristics of bodies*

- (1) Determination of degree of moisture in grains Federal Republic of Germany.
 * (2) Determination of the natural specific weight of grains Federal Republic of Germany.
 (3) Material testing machines (strength and hardness) Austria

Z. *Regulation of conditioned products*

- * (1) Regulation of conditioned products United Kingdom

APPENDIX E

LIST OF ASSOCIATIONS AND FIRMS WHICH HAVE SUBMITTED REPRESENTATIONS

ASSOCIATIONS

1. Agra Weights & Measures Manufacturers Association, 88, North Vijai Nagar, *Agra* (UP).
2. The Baroda Timber Merchants Association, Madanzampa, Bakrawadi, *Baroda*-1.
3. Central Gujarat Chamber of Commerce, Federation Building, R.C. Dutt Road, *Baroda*-5.
4. Gujarat Chamber of Commerce & Industry, P.B. No. 162, Ranchodlal Road, *Ahmedabad*.
5. Gujarat Tolnap Vepari Mandal, 1115/1, Pankorenaka, *Ahmedabad*.
6. Kanta Karigar Association of Savarkundla (Gujarat).
7. Metric Weights & Measures Association, 59/51-A, Birhana Road, *Kanpur* (UP).
8. National Chamber of Industries & Commerce, *Agra* (UP).
9. The Scale Manufacturers Association, *Savarkundla* (Saurashtra).
10. Scales, Weights & Measures Merchants & Manufacturers Association, C/o Hindustan Scale Company, 186/188, Janjika Street, *Bombay*-3.
11. Weights & Measures Association, C-6, Industrial Estate, *Roorkee* (UP).

FIRMS AND INDIVIDUALS

1. Avery (India) Ltd., Avery House, 28/2, Waterloo Street, *Calcutta*-1.
2. George Salter India Ltd., Chartered Bank Building, *Calcutta*-1.
3. Jivan Nagji & Sons, Parekhwadi, *Savarkundla* (Gujarat).
4. Libra Industries, Jeevan Shankar, 5th Floor, P.M. Road, *Bombay*-1.
5. National Tape Co., Ferozepore Road, *Ludhiana*.
6. Standard Mechanical & Iron Works, Pratap Nagar Road, *Baroda*.
7. Shri M. V. Pandit, Lax. Bhavan, 466, S.V. Patel Road, *Bombay*-4.
8. Shri V. M. Pednekar, 6, Nowroji Vakil Street, Grant Road, *Bombay*-7.

APPENDIX F

MINUTES OF THE MEETINGS OF MAITRA COMMITTEE

FIRST MEETING—CALCUTTA

(28—30 September, 1967)

MINUTES OF THE FIRST MEETING OF THE WEIGHTS AND MEASURES (LAW REVISION) COMMITTEE

The first meeting of the Weights and Measures (Law Revision) Committee was held on 28th, 29th, 30th September, 1967 in the Office of the Assistant Director, Weights and Measures, Calcutta. The following were present :

1. Shri S. K. Maitra, Additional Legislative Counsel, Ministry of Law, New Delhi (Chairman).
2. Shri Prem Prakash, Scientist, National Physical Laboratory, Delhi.
3. Shri M. V. Pandit, Deputy Controller, Weights and Measures, Maharashtra.
4. Shri A. M. Rao, Deputy Secretary, Orissa.
5. Shri N. Misra, Superintendent, Weights and Measures, Orissa.
6. Shri V. D. Bajpai, Deputy Controller of Weights and Measures, U.P.
7. Shri Mahendra Pal Singh, Incharge of Central Precision Laboratory, U.P.
8. Shri N. C. Roy, Controller of Weights and Measures, West Bengal.
9. Shri J. Ray, Assistant Director, Weights and Measures, Ministry of Commerce Calcutta.

Welcoming the members, the Chairman said that after a study of the Weights and Measures Laws of the Centre and the States and the work that has been done under these Acts he felt that a silent revolution had been brought about in the country in this basic field. He congratulated the Centre and the States for the excellent work done during the last 10 years.

Continuing he said that when the Weights and Measures Laws were drafted 10 years back, there was hardly any guidance or information available on the international practices in the field of establishment and enforcement of weights and measures. The work at the international level had not attained an integrated approach which crystallised only in 1960 when the "System International" was recommended for international use. The progress of the work of the International Organisation of Legal Metrology had also given a new orientation to the subject. In the light of these international developments and our own experience he felt that the end of the 10 years period was an appropriate time to consider whether there are any inadequacies in the Central and State Laws and whether any revision of such laws is necessary to revise them. The psychological barriers which had held us back in the past and the fears that were expressed at the time of the adoption of the metric system had now been removed and the country was now ready for weights and measures laws which had protection of the people's interests as consumer as one of the principal aims.

STANDARDS OF WEIGHTS AND MEASURES ACT

The amendments to the Standards of Weights and Measures Act, 1956 which have been suggested with a view to bring it in line with the international development as also to streamline it were then considered. It was agreed that during the last 10 years the General Conference of Weights and Measures (CGPM) had evolved an integrated system of units called "System International" which had been incorporated in their laws by advanced countries like France, Germany, U.K., etc. The present Indian Standards of Weights and Measures Act, 1956, though framed on the recommendations of the CGPM, did not recognise the "System International" in its entirety. This was because sections 12 and 13 which prescribed the standards of weights and measures did not recognise the secondary units of four out of six fundamental units, namely, time, electricity, temperature and luminous intensity. If

the recommendations of the CGPM were to be translated into dynamic legal terms it was necessary that the Standards of Weights and Measures Act should be amended so that the entire range of secondary, derived and supplementary units, as recognised by the CGPM, could be incorporated either in the Act or in the rules to be framed under the Act.

The Committee also agreed that after 10 years of experience in the field it was necessary to consider what each word of the Constitutional term "establishment of standards of weight and measure" could mean. In section 17(2)(d) it had been laid down that the limits of errors in the case of weights and measures should be prescribed under the Standards of Weights and Measures Rules. In 1955, with the limited knowledge of the subject available in the country and in the absence of proper international understanding of the problem, the interpretation of the words "weight and measure" was taken to mean the physical representation of the weight or measure by means of a solid piece of iron or brass or a measure for length or capacity. It excluded weighing and measuring instruments which indicated the same weight or measure through the operation of a mechanical device. This would imply that the weight or measure indicated by a weighing or measuring instrument is not a standard weight or measure and errors could not be recommended in the Standards of Weights and Measures Rules. The standardization of the error on a weight, measure or weighing or measuring instrument cannot be done in isolation. Error depended on the materials used, the purpose for which it is used, the construction of the weight, measure or weighing or measuring instrument, the manner of its operation and several other factors. Merely prescribing the error could not, therefore, be taken to mean that the "establishment of standard" had been effected. What was necessary was to cover under the Standards of Weights and Measures Rules the entire specification for a weight, measure or weighing or measuring instrument including such instructions as may be necessary to realise accurately the standard weight or measure in practice. The fine distinction drawn in the present Act between weight or measure and weighing or measuring instrument was unrealistic.

If this line of argument is accepted, it was considered desirable that the Centre should lay down the standard specifications for the various types of weights and measures and weighing and measuring instruments which now form part of the States Weights and Measures (Enforcement) Rules. Such a procedure, besides being constitutionally correct, would have the advantage that it would go a long way in ensuring uniformity in specifications and enforcement practices all over the country. The very crux of the metric reform was to achieve uniformity of weights and measures throughout the country. Incorporation of the specifications in the Weights and Measures (Enforcement) Rules of the States had led to a situation where there was considerable variance between the specifications included in the rules in accordance with the latest specifications and those which had not carried out the necessary amendments. This created considerable difficulty in trade and industry and led to divergencies and discrepancies which had to be corrected every now and then by administrative and other measures. The duplication of the uniform specifications in every State and Union Territory would be avoided if the centralised specifications could be recognised in the State Acts. Such specifications could be introduced in the Central Rules after a due process of consultation with the States.

The Committee noted that there was a precedent for such a step. In the U.S.A., as in India, the "fixation of standards of weights and measures" was a Federal responsibility, while enforcement was a State subject. The Federal Government prepares a model law in consultation with the States, as is being done in this country. The model States Weights and Measures Law in the U.S.A., lays down that for the purpose of enforcement specified handbook of specifications for weights and measures and weighing and measuring instruments or its latest revision prepared by the Federal authority would be recognised by all the States in their laws. This system has been working very satisfactorily in the U.S.A. In view of the constitutional similarity in this field between the U. S. A. and India it was considered desirable to follow it in India. The proposal was agreed to.

Further discussion showed that there was no penalty clause in the Standards of Weights and Measures Act. The scope of the Central Act was very wide and covered all classes of goods and undertakings, etc. The scope of the State Acts was not as comprehensive as the Central Act but was more selective, *e.g.*, commercial transactions. There was thus a gap in the coverage of the Central and State Acts. Any offence committed in this gap would, therefore, go unpunished.

There was considerable discussion whether a penalty could be provided for the infringement of the Central law in the State Act. It was pointed out by the Chairman that the Constitution provided under Entry 93 of the Union List that the Centre was competent to prescribe penalties in respect of the entries in the Union List and the States were responsible for prescribing penalties for the infringement of the State Acts. It was, however not possible to incorporate penalty provisions in the State Acts for infringement of the Central Laws. It was desirable to include penalty clause in the Central Act itself. Such penalties had been prescribed in the case of many other Acts under the Centre.

It was agreed that a provision may be made for penalising offences under the Central Act in such a manner that the offences covered by the State Acts would be excluded from the Central purview.

The comments of Shri M. V. Patankar were then taken up for discussion. While most of the comments had been taken into account in the above discussion, the point whether the system of decimal numeration or the use of numbers as a count could be considered a measure evoked considerable discussion. The agreed opinion was that there were a number of commodities which were sold by number in the country. All the countries in the world recognised "count" as a measure and their weights and measures legislation dealt with offences committed under this head. The Standards of Weights and Measures Act should, therefore, recognise count or number as measure. Further, in line with the practices being followed in Continental countries like France, Germany etc. an enabling section should be incorporated to recognise one or more systems of decimal numeration like lakhs, crores or million, billion for use in various fields in India. The provision relating to this should enable the Government to recommend one or more systems in consultation with the interests concerned, through Rules.

STATE WEIGHTS AND MEASURES (ENFORCEMENT) ACT

There was a general discussion on the scope of the State Weights and Measures (Enforcement) Acts. It was noted that the Constitutional provision did not restrict the laws to any particular activity, but covered the entire field of weights and measures. While the Central Act at least defined the six basic units and certain other units of weights and measures and was to a large extent in line with international development, the State Acts applied only to commercialise transactions in a rather narrow sense. It did not go far enough in consumer protection which is an essential task in the present context. The reason for this restricted application was that State Act was modelled on a similar Act which was in force in the State of Bombay from 1932, which in its turn was based on the Weights and Measures Act of 1878 as enforced in U.K. Thus the present State Act was a reflection of the century-old U.K. practices. At the time the State Model Act was prepared to International Organisation of Legal Metrology (OIML) had just come into existence in 1955. Just as the CGPM works in the field of basic units of weights and measures, the OIML works in the field of the law of weights and measures, i.e., legal metrology. India became a member of the OIML only in 1958. The work of the OIML had gathered momentum during the last 10 years. It had also drawn up a study programme which, by the International convention, was expected to be reflected in the laws on weights and measures of the member States.

The State Acts, which dealt with the control or enforcement of weights and measures practised have, therefore, to be widened to make them capable of accommodating the international work. A study of the work of the OIML and its thinking on the basic tenets of legal metrology showed that the control or enforcement law should cover the following points, if it was to be useful under modern conditions and be in line with international developments:—

- (1) Control of weights and measures.
- (2) Ensure justice in transactions, whether in trade or industry or in Government Departments or elsewhere and protection of the people as consumers against fraud in quantity.
- (3) Help industry to achieve accuracy of measurements in terms of the international prototype, by calibrating various types of engineering measure.
- (4) To protect human being by ensuring accuracy of instruments which have a bearing on his safety and health, e.g., period calibration of their mometers. medical syringes, blood pressure instruments, noise measuring instruments. etc.

The OIML work extended to more areas. The Committee felt that as the State Act was under consideration it was desirable to extend the scope of the Act to cover the above activities in the first instance. As the scope of the OIML work extended the Central and State Laws could be brought in line with it, as and when necessary.

After generally considering the principles of Legal Metrology, the meeting took up the consideration of the revised Model Weights and Measures (Enforcement) Act circulated with Ministry of Commerce letter No. 15(2)/67-W&M, dated 1-3-1967, clause by clause. It was agreed that the comments received could be discussed after the new draft revision was considered.

CHAPTER I

Section 1(1)—Short title, extent and commencement.—The Chairman said that in view of the unanimous opinion expressed on the scope of the Act, it was necessary to revise the State Act completely. The Chairman pointed out that the title and opening paragraphs *i.e.*, section 1(1) may have to be redrafted to reflect the position. A suitable title would be recommended by the Chairman.

Section 1(2).—As in the revised draft.

Section 1(3).—The applicability of the Act should be made into a separate section and incorporated at a suitable place, preferably at the commencement of Chapter II.

Section 1(4).—As a result sub-section 4 could be rewarded as the old model Bill.

Section 2—Definitions. "Commodity in package form".—The definition given in the Model Act was elaborated to read as follows :—

(a) "commodity in package form" means commodity put up or package in any manner in advance of sale in units suitable for either wholesale or retail sale, exclusive of an auxiliary shipping container enclose packages that individually conform to the requirements of this Act.

Explanation.—An individual item or lot of any commodity not in package as defined in this section, but on which there is marked selling price based on an established price per unit of weight or of measure shall be construed to be commodity in package form.

(b) *Controller.*—The Controller should be defined and should include Additional Controller, Joint Controller, Deputy Controller and Assistant Controller. The powers provided in sections 18 and 20 Inspectors should be conferred not only on the Inspector but also on the Controllers so that those powers may be exercised by all the Additional Controllers, Joint Controllers, Deputy Controllers, Assistant Controllers as the case may be. In case it was felt that some of the powers conferred on the Controller by the Act should not be exercised by any other officer, administrative instructions should be issued to that effect. Those will remove difficulties with regard to the administration of the Act. It was, however, felt that the conferment of concurrent power on the Additional Controller, Joint Controller, etc., may lead to abuse of powers. But this was a matter which could be controlled under the disciplinary powers of the Government.

(c) "*Engineering Measuring Instruments*".—Shri Prem Prakash would suggest a suitable definition.

(d) "*Inspectors*".—There was considerable discussion about the definition of Inspector. Some of the States felt that Senior, Junior and other types of Inspectors should be recognised in the Act. It was pointed out that if a number of categories of Inspectors were recognised under the Act, it would be necessary to define their functions and powers separately for each category of Inspectors. This would be an almost impossible task and would lead to considerable difficulties, confusion and differences in the State Organisations and enforcement of Weights and Measures. In view of this fact it was agreed that only one category, *viz.* Inspectors, should be recognised in the Act. The definition would be the same as given in the revised model.

(e) The definition of the "mint" was amended to read as follows :—

(e) "mint" means the mint of the Central Government.

(f) "person" had been defined under the General Clause-Act. That definition of "person" did not include Government Departments and offices. The Weights and Measures Acts have to be made applicable to every one otherwise there would be discrimination which was very undesirable. The definition of person had to include Government Departments, offices and other Government Organisations. To give the definition completeness it should be ascertained on which basis Handloom Board and Khadi and Village Industries Board, etc., had been set up, and examine whether they were covered under the definition of "person". Tentatively, the definition of "person" should be as follows :—

"person" includes Government Departments, Offices and other Government Organisation.

(g) "prescribed".—The definition as given in the revised model was approved.

(h) "Standard Weights and Measures".—The definition given in the revised model was accepted.

(i) "reference standards".—The definition given in the revised model was approved.

(j) "stamp".—After considerable discussion the definition of "stamp" was amended to read as follows :—

(j) "stamp" means a mark which is made with a view to certifying the correctness of weights and measures, whether by impressing, casting, engraving, etching, branding or by any other means.

In the discussion on this definition it was pointed out that no fee is charged for stamping. The fee is charged for the more complicated task of verification. The rules concerned with verification and stamping should, therefore, be amended accordingly to reflect this distinction.

(k) Use in transactions.—The revised model had suggested a definition for "use in any transaction for trade and commerce". In the discussion it was pointed out that the recognition of the same weights and measures for trade and non-trade purposes had led to considerable misuse and large scale infringement of the weights and measures laws. Weights and Measures which could not be relied upon to ensure accuracy of weighing and measuring had been used for transactions in trade. This had given a setback to efficient enforcement. It was, therefore, considered desirable to delete the words "in trade and commerce" from the definition and to amend the definition to read as follows :—

(k) "use in transaction" means use for the purpose of determining or declaring the quantity of anything in terms of measurement of or measure in or in connection with

(i) any contract, whether by way of sale, purchase, exchange or otherwise; or

(ii) any assessment of royalty, toll, duty or other dues; or

(iii) the assessment of any work done or services rendered.

It was recommended that as other units like time etc. were involved in transactions, and as the Central Act is to be made comprehensive, the reference should be to weights and measures generally and not to particular units. Further, the exemption provided for household use or laboratories was considered unnecessary as they could not come under the above definition. The principal objective of this definition is to remove the artificial distinction between "trade" and "non-trade" machines, at the manufacturer's level.

(l) "Verification".—The definition as given in the revised draft was accepted.

(m) The definition of "weight and measure" as adopted from a similar definition in the Model Act of the U.S.A. was amended as follows from the revised model :—

(m) "weights and measures" means weights and measures specified by or under the Standards of Weights and Measures Act, 1956 and includes—

(i) instruments and devices for weighing and measuring them, singly or in combination, and any appliances, accessories and parts associated with any or all such instruments or devices ;

(ii) and engineering measures and devices used for ensuring human safety.

It was also considered desirable to include definitions of sale, delivery, import and export; manufacturer, repairer and dealer. It was agreed that while the definitions of "import" and "export" could be easily incorporated from similar definitions given under the Import and Export Act, the definition of manufacturer had to be carefully drafted. After considerable discussion the following tentative definition was accepted :—

"manufacturer" means a person who,—

(i) makes and manufactures any weight or measure and presents the same for verification as an article made and manufactured by himself; or

(ii) makes and manufactures some part of any weight or measure and acquires other parts of such weight and measure from any other person and presents such weight and measure, after assembling the same, for verification as an article made and manufactured by himself; or

(iii) does not himself manufacture any weight or measure but assembles the parts manufactured by others and presents the weight and measure so assembled for verification as an article manufactured by himself; or

(iv) presents for verification any weight or measure not made, manufactured or assembled by him as a weight and measure manufactured by himself.

A definition for "instruments ensuring human safety" would be included after consultation between the Ministry of Law, the NPL, the Directorate of Weights and Measures.

Sale, delivery.—These terms have to be carefully defined so that no State may misunderstand the connotation of sale and delivery as has been done in the State of West Bengal.

Repairer and dealer to be defined.—A repairer is one who paints weights, corrects measures or overhauls and repairs weighing and measuring instruments and carries out allied task before presenting weights etc. for periodical verification. The repairer does not enter into the picture at the initial verification. Substantive provision has to be made with regard to the duties and obligation of a repairer and dealer. The definition of repairer should be so devised that an owner who repairs any machine himself, may not come within the definition of repairer and he may not be required to take out a licence as a repairer.

Provisions may be made in the law enabling the Licensing Authority to enquire about the antecedents of the applicant for a repairer's licence and as to whether he is a fit and proper person to whom such a licence should be granted. This provision was considered necessary, as many cases have occurred where licenced dealers have decamped with equipment brought to them for repairs. The competence of a repairer has also to be established because an inexperienced or inadequately equipped repairer could easily damage the instruments he repairs.

Juvenile Offenders.—Shri Pandit raised the question whether a child who committed an offence under the Weights and Measures Act could be prosecuted under the Weights and Measures Act. The Chairman pointed out that under the general law the presumption is that a child below 7 years cannot commit a crime. But a child who is above 7 years is equally able for punishment as an adult person, but there are some special provisions with regard to juvenile delinquency and in pursuance of these special provisions of law the Magistrate may pass necessary orders with regard to sending the child to a reformatory school or any other place or may, instead of convicting him, bind him for good conduct for one year.

CHAPTER II

STANDARD WEIGHTS AND MEASURES

Sub-section (3) of section 1 from Chapter I should come in this Chapter as a substantive provision. This section would be suitably redrafted.

It was agreed that the sequence of standard weights and measures should be : reference, secondary, working. The sections were renumbered and amended as follows :—

"3. *Reference standards.*—The reference standards shall be kept at such places, in such custody and in such manner as the State Government may direct.

4. *Secondary standards.*—(1) For the purpose of verifying the correctness of the working standards, the State Government may cause to be prepared at the Mint as many sets of authenticated standard weights and measures as it may deem necessary to be called the secondary standards.

(2) The secondary standards shall conform to specifications laid down under the Central Act and shall be stamped and authenticated by such person or authority as the State Government may direct.

(3) The Secondary standards shall be kept at such places, in such custody and in such manner as may be prescribed.

(4) It was felt that the period of 5 years for the reverification of secondary standards weights would be a little too long because of the material which has been used for the fabrication of these weights, namely, admiralty bronze. This material is liable to oxidation and thereby changing in its mass over a period of time. It was agreed that it would be desirable for the present to reduce the reverification period from 5 years to 2 years. The sub-section may be reworded accordingly.

(5) A secondary standard which is not so verified and marked within the afore-said period shall not be deemed legal and shall not be used for the purposes of this Act.

5. *Working standards.*(1) For the purpose of verifying the correctness of weights and measures the State Government may cause to be prepared as many sets authenticated standard weights and measures as may it deem necessary, to be called the working standards.

(2) The working standards shall conform to specifications laid down under the Central Act and shall be prepared by such agency and shall be stamped by such person or authority and in such manner as may be prescribed.

(3) The working standards shall be kept at such places, in such custody and in such manner as may be prescribed.

(4) A working standard shall be verified with the secondary standard and marked by such persons, at such places, at such intervals and in such manner as may be prescribed.

(5) A working standard which is not so verified and marked within the prescribed period shall not be deemed legal or be used for the purposes of this Act.

(6) A working standard which has become defective shall not be deemed legal or be used for the purpose of this Act, until it has been verified and marked in the prescribed manner.”.

6. (1) *Standard weighing and measuring instruments.*—Amended clause reads :

“ 6. (1) For the purpose of verifying the correctness of weights and measures, the State Government may cause to be prepared as many sets of standard weighing and measuring instruments and other equipment as it may deem necessary.”.

6. (2) This clause will read :

“ 6. (2) Such instruments and equipment shall conform to the specification laid down under the Central Act and shall be of such category, shall be in such number and shall be verified and stamped in such manner as may be prescribed.

6. (3) Such instruments shall be kept at all places where reference, secondary or working standards are kept.”.

7. (1) *Prohibition of use of weights and measures other than standard weights and measures.*—Approved section reads :

“ 7. (1) Notwithstanding anything contained in any other law or any custom, usage or practice, or method of whatever nature no unit of mass or measure other than the standard weight or measure shall be used or kept in any premises for any purpose in respect of which this Act has come into force.”.

7. (2) The wording of the section as given in the revised model draft was generally approved. It was felt that contingencies for which words “service and thing” have been added should be clearly visualised so that it may be clear as to what the problem is which is sought to be tackled by the proposed alternation of the law.

7. (3) Approved clause reads :

"7. (3) Any transaction, dealing or contract made or had after the commencement of this Act, shall, in so far as it contravenes the provisions of sub-section (1), be void."

After considerable discussion it was agreed that where experts were concerned and the importer insisted on the indications on packages in units other than standard units, an exemption may be granted for such indication in addition to standard units, as is the international practice. This exemption should not include any of the earlier stages of production in factory or elsewhere but only to indications at the ultimate stage of export. A tentative proviso based on the French practice was agreed to and is given below :—

"Provided that in relation to special standards, plans, nomenclature catalogues and on merchandize packages and containers which are exported and the importer insists, indication in corresponding measures may be made if an indication of the corresponding measure under this Act is also made on such merchandise, packages and containers."

Registration of Users.—Shri Bajpai raised the question whether a provision should not be made for compulsory registration of persons using any weight or measure excepting itinerant vendors. It was felt that the provision of compulsory registration was likely to create considerable amount of paper work but the advantages which are likely to be derived from such a registration may not serve any purpose excepting statistics. The question should, therefore, be further considered to find out whether a provision of such compulsory registration would or would not assist the enforcement of the Act and the Rules made thereunder.

8. (1) *Power to prescribe use of weights only or measures only in certain cases.*—It was felt that this sub-section should be redrafted to clarify the meaning. The wording of the U.S.A. model section 25 may be taken as a base.

8. (2) Approved wording :

"8. (2) A notification issued under this sub-section shall take in such area, with effect from such date, and subject to such conditions, if any, as may be specified therein."

CHAPTER III

9. *Prohibition of manufacture of non-standard weights and measures.*—For the existing proviso the following proviso shall be substituted :—

"Provided that the State Government may permit the manufacture of any unit of mass or measure which is not in conformity with the provisions of this Act if such unit of mass or measure is manufactured exclusively for the purpose of export and if such manufacture is made under such conditions and restrictions as may be specified by the State Government in this behalf:

Provided further that no unit of mass or measure shall be manufactured by any person unless he holds a valid licence granted by the State Government authorising him to manufacture such unit of mass or measure."

The main section should have a provision prescribing that no unit of mass or measure shall indicate any unit other than the units specified by or under the Act.

10. *Making of denominations on weights and measures.*—Approved wording :

"10. Every weight or measure manufactured shall bear the description of the weight or measure which it purports to be marked legibly on it in such manner as may be prescribed."

11. *Prohibition of sale of unstamped weights and measures.*—Approved wording :

"11. No weight or measure shall be sold or delivered unless it has been verified or reverified in accordance with the rules made under this Act and stamped in the prescribed manner by an Inspector."

12. *Prohibition of use of unstamped weights or measures.*—In this clause after the words "shall be used", the words "or kept for use" to be inserted. The language of section 12 needed to be considered later.

13. *Power of State Government to exempt.*—This clause should be revised as follows :

“13. Where the size of the weight or measure renders it impracticable to have any denomination or capacity marked on it or to stamp it after verification, the State Government may by notification in the Official Gazette exempt such weight or measure from being so marked or stamped.”.

14. *Prohibition of manufacture, etc., of weights and measures without licence.*—Approved wording:

“14. No person shall manufacture, repair or sell any weight or measure unless he holds a valid licence, obtained in the prescribed manner, from the Controller.”.

15. (1) After considerable discussion, this section was provisionally accepted with the following wording :—

“15. (1) *Manufacturers to submit models of weights and measures for approval prior to regular production.*—Every manufacturer of any weight or measure who manufactures such weight or measure to an existing design, shall,—

(a) if he makes such manufacture at commencement of this Act, within such period as may be prescribed,

(b) if he makes such manufacture after such commencement, but before he commences such manufacture, submit to the prescribed authority such number of so that authority may specify of such weight or measure.”.

This provision should also be made applicable to any weight and measure which is imported.

“(2) Every model submitted under sub-section (1) shall be accompanied by such particulars as may be prescribed.

(3) The prescribed authority shall, after such examination as it considers necessary submit a report to the Controller on the model within the prescribed period.

(4) The Controller may, after considering the report of the prescribed authority submitted under sub-section (3), accept the model or suggest modification thereto or reject the same and shall give intimation to the manufacturer accordingly :

Provided that no modification to the model shall be suggested or no model shall be rejected under this sub-section unless the manufacturer has been given a reasonable opportunity of being heard in the matter.”.

After further discussion, it was agreed that when a report of the prescribed authority is sent to the Controller and a licence to manufacture an article is granted by the Controller on the strength of such report the Controller shall publish the report of the prescribed authority its summary in the Official Gazette and the Controller should obtain sufficient copies of the report as published in the Official Gazette and circulate the same to the Controllers of other States for other States.

A provision should be made in the rules to the effect that the model approved on the basis of which licences are issued should be prescribed by the Controller and shall be deemed to be the property of the Government. Imported models should also be subject to approval.

“(5) Where the Controller suggests any modification to the model under sub-section (4), the manufacturer shall not continue to manufacture or manufacture, as the case may be, the weight or measure to which the model relates otherwise than in accordance with that modification.

(6) Where the Controller has rejected any model under sub-section (4), the manufacturer shall not continue to manufacture or manufacture as the case may be, the weight or measure to which the model relates.

(7) The approval accorded to model may be revoked by the Government if experience shows that the weight or measure produced according to the models shows defects in robustness or functioning or when it does not conform to the rules. The alternation of the model should be made punishable. Provision should also be made for the revocation of the approval if any unauthorised alternation is made in the model:

Provided that the manufacturer shall be given an opportunity of being heard in the matter before such revocation.”.

Where a model by reason of its bulky nature, cannot be conveniently produced for testing at the NPL or other laboratory, the manufacturer may be permitted to submit working drawing of such model for verification and testing by the NPL and also enable the NPL or other authority to carry out the test at the site where the model has been erected or kept.

In the discussion it was noted that as the scheme was new there were a number of points which required a fuller consideration of a draft section revised in the light of international practices. A revised section would be considered in the second meeting.

After considerable discussion it was tentatively decided to draft section 16 as follows:

‘16 (1) *Commodities in packaged form-marking and other requirements.*—No person shall introduce, deliver for introduction into or receive in trade, keep for sale, offer or expose for sale or have in his possession for sale any commodity in package form unless the package bears thereon or on a label securely attached thereto, in the manner prescribed, a definite, plain and conspicuous declaration of—

(i) the identity of the commodity in the package unless it can be easily identified through the wrapper or container;

(ii) the net quantity of the contents in terms of standard units of mass or measure; and

(iii) in the case of any package kept offered or exposed for sale or sold or held in possession at any place other than on the premises where packed, the name and place of business of the manufacturer, packer or distributor:

Provided that in connection with the declaration required under (ii) above, neither the qualifying terms “when packed” or any words of similar import, nor any term that tends to mislead about the quantity of commodity in a package, shall be used:

Provided further that under (ii), reasonable variations may be allowed, including variations below the declared weight or measure caused by ordinary and customary exposure, only after the commodity is introduced in trade, to conditions that normally occur in good distribution practice and that unavoidably result in decreased weight or measure:

Provided further that the provision of this section shall not apply to any commodity in package form—

(a) of net weight of less than one hundred and twenty grams, if it contains biscuits, confectionery or sweets; and

(b) of net weight less than sixty grams, if it contains any other foodstuff.’.

The exemption limits of 120 g and 60 g appeared to be irrational. They should be reduced 100 g and 50 g or some such rational units. If the exemption limits are based on the existing packaging practice, it was desirable to rationalise that practice. As the original exemption was given on due discussion with the Ministry of Health, that Ministry should be consulted for revision of the exemptions and packaging requirements.

A presumption clause should be inserted to the effect that any commodity in a package form which is found in any business premises shall be presumed to be kept there for the purpose of sale. Often packages are kept in godowns, and the trader could plead that as they are not for trade, they do not come under the purview of the Act. In carrying out his duties of ins-

pection, the Inspector may require the packages to be brought for inspection from the godown. It was also possible that the trader practising fraud may get packages from his godown in single units for sale to his regular shop. It was, therefore, agreed that a definition of "business premises" will have to be included in the Bill and it will be provided therein that the godown will be included in the business premises.

Proviso should be elucidated so as to indicate that the net weight should be mentioned after taking into consideration the variations due to humidity, exposure, etc., in the net weight as in the U.S.A. Model Law.

"(2)—*Other sub-clauses-Approved wording.*—No commodity in package form shall be so wrapped nor shall it be in a container so made, formed or filled as to mislead the purchaser as to the quantity of the contents of the package.

(3) Whenever a commodity in packaged form is advertised in any manner and the retail price of the package is stated in the advertisement, there shall be closely and conspicuously, associated with such statement of price a declaration of the basic quantity of the contents of the package:

Provided that in connection with such declaration, there shall be declared neither the qualifying term 'when packed' nor any other words of similar import, nor any term that tends to mislead about the quantity of commodity in package.

(4) The Inspector shall, from time to time, weight or measure the contents and inspect packages which are packed, kept, offered for sale, sold, delivered, held in possession or in the process of delivery, to determine whether the same contain the quantity represented and whether they conform with the provisions of this Act and the Rules thereunder and when such packages are found not to contain the quantities represented, or are found not to conform with the requirements of this Act and the Rules thereunder, the Inspector may order them not to be sold and may so mark or seal them as to show them to be illegal.

(5) No person shall sell, or keep, or offer for sale, any package that has been ordered not to be sold or marked or sealed as provided in sub-section (4) unless and until such package or quantity of commodity has been brought into Compliance with all legal requirements:

Provided that any package which cannot be brought into compliance with legal requirements, shall be disposed of only on the specific approval or orders of the Controller or any other official so authorised in this behalf.

(6) The State Government may prescribe the Standard contents by weight or measure for any commodity in package form and, wherever necessary, the specifications for such packages."

(7) Section 27 of Model State Weights and Measures Law of U.S.A. may be included suitably.

It would be desirable to provide a penalty for unauthorised sale of packages ordered "not to be sold" under sub-section (4) above. It was agreed that this section should be reconsidered at the time of framing the rules.

Section 17 was agreed to with the following wording:

"17. *Prohibition of quoting price, expressing quantity, etc., of any article, etc., otherwise than in terms of standard weight or measure.*—No person shall quote the prices or make announcements by word or mouth or otherwise, issue or prepare advertisements, price lists, invoices, cash memos or other documents or literature or posters, indicate on labels or packages or express the quantity or dimension of any article, thing or service otherwise than in terms of the standard weight or measure."

Section 18 was worded as follows after discussion:

“18. *Appointment of Controller, Assistant Controller and Inspectors.*—(1) The State Government may appoint a Controller of Weights and Measures for the State and as many Additional, Joint, Deputy or Assistant Controllers, Inspectors of Weights and Measures and other Officers and staff as may be necessary for exercising the powers and efficiently discharging the duties conferred or imposed on them by or under this Act.

(2) The Controller may, by general or special order, define the local limits within which each Inspector shall exercise the powers and discharge the duties conferred or imposed on Inspectors by or under this Act.”.

(3) This sub-section should be reworded so as to omit the provision with regard to the exercise of the power of the Inspectors by the Assistant Controller, etc. (*see* discussion on section 2(b) earlier) and a provision empowering the Additional Controller, etc., to enter into premises and seize articles should be made at the appropriate place.

(4) The State Government shall have the Inspectors trained for the prescribed duration at an Organisation approved for the purpose.

The discussions concluded after considering section 18. It was agreed that as the work involved considerable exchange of ideas, it was desirable to hold meetings in quick succession so that the work could be efficiently completed in a short time. In view of the need to hold meeting at different centres it was agreed that the next meeting of the Committee should be held at a suitable place (preferably Varanasi) during the last week of December, 1967.

The meeting concluded with a vote of thanks to the Chair.



नमःसिंह जयन्ते

SECOND MEETING—VARANASI

(8—11 JANUARY, 1968)

MINUTES OF THE SECOND MEETING OF THE WEIGHTS AND MEASURES LAW REVISION COMMITTEE

The second meeting of the Weights and Measures Law Revision Committee was held in the Circuit House, Varanasi, on 8, 9, 10 and 11 January, 1968. The following were present:

1. Shri S. K. Maitra,
Joint Secretary and Legislative Counsel,
Ministry of Law, New Delhi (Chairman).
2. Shri T. P. Tewary,
Controller of Weights & Measures,
Uttar Pradesh,
Lucknow.
3. Shri V. D. Bajpai,
Deputy Controller, Weights & Measures,
Uttar Pradesh.
4. Shri M. V. Pandit,
Dy. Controller, Weights & Measures,
Government of Maharashtra,
Bombay.
5. Shri T. Madhusudan,
Deputy Controller, Weights & Measures,
Andhra Pradesh,
Hyderabad.
6. Shri N. C. Roy,
Controller, Weights and Measures,
West Bengal,
Calcutta.
7. Shri Syed Ahmed Khan,
Jt. Controller of Weights & Measures,
Government of Mysore,
Bangalore.
8. Shri A. M. Rao,¹
Deputy Secretary,
Government of Orissa,
Bhubaneswar.
9. Shri N. Misra,
Superintendent, Weights & Measures,
Orissa.
10. Shri Pandey,
Assistant Controller, Weights & Measures,
Uttar Pradesh.
11. Shri Prem Prakash,
Scientist,
National Physical Laboratory,
New Delhi.
12. Shri V. B. Mainkar,
Director, Weights and Measures,
Ministry of Commerce,
New Delhi.

The Chairman welcomed the members and said that the consideration of the revision of the Weights and Measures (Enforcement) Act would now be taken up from the point where it had been left off in the first meeting.

He then requested Shri Bhagwant Singh, Food Commissioner and Secretary to the Government of Uttar Pradesh to say a few words.

Shri Bhagwant Singh said that the control of weights and measures was an important task because it not only ensured uniformity of weights and measures but also afforded protection to the consumers in various respects. The initial phase of the enforcement of weights and measures which was more concerned with trade was now nearing completion and the Act has now to be applied to various new activities which were of highly technical character. The States have to be ready to undertake such technical work. As science and technology advances the sophistication of measuring instruments also increases. These have to be covered progressively under the law. When uniformity is achieved and the same weights and measures are used all over the country, it will help in the integration of our country. Ultimately, through OIML, international practices would develop in the field of weights and measures. It is a very inspiring programme which is now making progress, though it has not attracted public attention to the extent it deserves. Many people think of the Weights and Measures Organisation only as a machinery to collect revenue and the work of the Inspector is judged in terms of the revenue earned during the year. This impression has to be corrected and utility of the work being done brought home to the people. Shri Bhagwant Singh thanked the Chairman and the members.

Elaborating on the points made out by Shri Bhagwant Singh, the Chairman said that weights and measures covered a very vast field. Control on weights and measures was being extended in developed countries to such fields as radiation hazards, noise measurement and other activities which are likely to harm the interest of not only the human beings but also animals, vegetation, etc. We had to foresee the future and revise our laws suitably to cover these requirements. He then requested that the revision of the law should be considered in this light by the members.

The consideration of the various sections of the first draft revision of the Weights and Measures (Enforcement) Bill, 1967 dated 20-2-1967 which was circulated with the Directorate of Weights and Measures Letter No. 15(2)/67-WM dated 1-3-1967 was taken up for consideration, from the point where they were already covered in the first meeting.

The section numbers given below refer to sections in the above mentioned draft revision.

Section 19—Verification and Stamping by Inspectors.—While considering section 19 the following points were made out:

(i) The jurisdiction of the Inspector is determined by the local limits of the area that he has to cover. Therefore, it may be desirable to indicate the jurisdiction by its limits.

(ii) As the word 'Controller' has been defined to mean the Controller and the other officials, the words 'any other officer authorised in this behalf by the Controller' may be deleted.

(iii) It was considered desirable that the person who uses any weight should present it for verification periodically at a place indicated by the Inspector.

(iv) This section has no reference to the verification and stamping of weights and measures which cannot be moved from their location. It was, therefore, considered desirable to include such weights and measures under this section.

Taking into account above points section 19 was redrafted as follows:—

"19. (1) Every person having any weight or measure in his possession, custody or control in circumstances which indicate that such weight or measure is being or is intended to be used by him in any transaction or for protection or for industrial production, shall present such weight or measure for verification at such place and at such periodical intervals as may be prescribed.

(2) Every Inspector shall, for the purpose of verification of any weight or measure, attend at such place and time within the local limits of his jurisdiction as may be specified by the Controller under sub-section (1) and verify every weight or measure which is brought to him at such place and shall put his stamp thereon in the prescribed manner, if he finds that such weight or measure is in conformity with the Standards of Weights and Measures Act, 1956, (89 of 1956), and the Rules made thereunder;

provided that where any such weight or measure is of a type which cannot be moved from its location, the Inspector shall take such steps for the verification of such weight or measure as he may think fit."

Section 20—Power to Inspect, etc.—Sub-section (1) needed alteration to cover the principal activities carried out under the Act. Sub-sections (3), (5) and (6) needed to be redrafted. In view of the definition of the premises included in the Act it was considered that the *explanation* under sub-section (7) was not necessary. The section was, therefore, redrafted as follows:—

"20. (1) An Inspector may within the area under the local limits of his jurisdiction, inspect and test at all reasonable times any weight or measure which is being or is intended to be used in any transaction or for protection or for any industrial production, or is in the possession, custody or control of any person or is in or on any premises in such circumstances as indicate that such weight or measure is being, or is intended or likely to be used in any transaction or for protection or for any industrial production and may also verify such weight or measure in such manner as may be prescribed.

(2) For the purpose of verifying the correctness of any weight or measure, an Inspector may also verify the weight or measure of any article sold or delivered to any person.

(3) An Inspector may, at all reasonable times, require any person to produce before him for inspection every weight or measure which is used by such person or is caused by such person to be used by any other person or which is in the possession, custody or control of such person or which is kept in or on any premises for use in any transaction or for protection or for industrial production and every document or record relating thereto and the person aforesaid shall comply with such requirements.

(4) For the purpose of inspection, an Inspector may, at all reasonable times, enter into any premises where weights and measures are used or kept or believed to be kept for use in transactions or for protection or for industrial production and inspect and test such weights and measures.

(5) An Inspector may seize and detain any weight or measure with which an offence under this Act appears to have been committed or which is likely to be used in the commission of such an offence, and may also seize and detain any articles sold or delivered or caused to be sold or delivered by means of such weight or measure together with any documents or records relating thereto.

(6) An Inspector may, at all reasonable times, enter the premises of a manufacturer, packer, distributor or any other persons who manufactures, packs, distributes, sells, keeps or offers for sale or has in his possession for sale any commodity in packaged form for inspecting or verifying the net content by weight or measure of such package or for the purpose of ascertaining the permissible errors or for such other purpose as may be prescribed.

(7) Where an Inspector has reason to believe that the net content of any commodity in packaged form as indicated on the label attached to the container is less than the quantity so stated, he may break one or more such packages or containers and verify their net contents, and if, on such verification, the net weight or measure of the commodity contained in such package or container is found to be correct, he shall seal the package or container as the case may be in such manner as may be prescribed and attach a certificate thereto stating the correct weight or measure of the commodity contained in such package or container, and where it is not possible to seal such package or container, he shall, after obtaining a written receipt, tender the fair price thereof to the person from whom such package or container was obtained.

(8) Where, after any verification made in sub-section (7), it is found that the net weight or measure of the commodity contained in any package or container is less than the quantity specified on the label thereon, the Inspector may seize such package or container and the commodity contained therein, and may file a complaint against the manufacturer, packer, distributor or seller or any one or more of them as may appear to him to be necessary, for the contravention of the provisions of this Act;

provided that where any such seizure is made from any person other than the manufacturer of the commodity, the Inspector shall, after obtaining a written receipt, tender the fair price of the commodity to the person from whom such package or container has been seized.”.

Section 21—Power to authorise Inspector to adjust weights or measures.—It was not considered necessary that the State Government should authorise the Inspector to adjust weights. The Controller could more appropriately be authorised to do so. So the words “State Government” were replaced by the word “Controller” and the section was redrafted as follows for the sake of clarity:—

“21—Where the Controller is of the opinion that it is necessary so to do, he may, by an order in writing, authorise an Inspector to adjust any weight or measure in any area.”.

Section 22—Manufacturers, etc. to maintain records and documents.—It was considered that the Controller could exercise the power of exemption under this section. The power was mainly intended to exempt small dealers from maintaining these records as a very large number of them were illiterate. The section was, therefore, redrafted as follows:—

“(1) Every manufacturer, repairer or dealer in weight or measure and every person using any weight or measure in any transaction or for protection or for industrial production shall maintain such accounts as may be prescribed and, if required so to do by an Inspector, shall produce such records and accounts before such Inspector for inspection.

(2) Notwithstanding anything contained in subsection (1), if the Controller is of opinion that having regard to the nature of business carried on by any such manufacturer, repairer or dealer, it is necessary so to do, he may, by order, exempt such person or class of persons from the operation of that sub-section.”.

Section 23 —Appeals.— It was not considered necessary to make any change in the original section which reads as follows:—

“23. (1) Subject to the provisions of sub-section (2) an appeal shall lie—

(a) from every decision under this act of—

(i) an Inspector,

(ii) an Assistant, Deputy, Joint, or Additional Controller, to the Controller, and

(b) from every decision under this Act, of the Controller, not being a decision made in appeal under clause (a), to the State Government or any officer specially authorised in this behalf by the State Government.

(2) Every such appeal shall be preferred within sixty days from the date of the decision appealed against.

(3) On receipt of any such appeal, the appellate authority shall, after giving the appellant a reasonable opportunity of being heard and after making such enquiry as it deems proper, decide the appeal and the decision of the appellate authority shall be final.”.

Section 24 — Levy of fees.— Fees are being charged for the issue of duplicate copies of licences, certificates of verification, etc. and also for renewal of licences. The section was therefore, redrafted as follows :—

“24. The State Government may levy such fees as may be prescribed —

(a) for the grant or renewal of licences for manufacture, repair or sale of any weight or measure,

(b) for the verification, or adjustment any of weight or measure, or

(c) for the issue of duplicate licenses or duplicate certificates of verification, or alterations in licences.”.

Section 25 — Validity of weights and measures duly stamped.— The original section elaborated two ideas. The first was the validity of the verification of a weight or measure and secondly, its use in places within the State other than the place where it was stamped. To bring out this aspect, the section was redrafted as follows:—

“25. (1) A weight or measure which is duly stamped by the Inspector under this Act shall be deemed to be in conformity with the provisions of the Standards of Weights and Measures Act, 1956 (Central Act 89 of 1956) and the rules made thereunder in every place within the State of (Name of State) in relation to which this Act has come into force unless such weight or measure is found, on an inspection or verification to be not in conformity with the provisions of the said Act or the rules made thereunder.

(2) No weight or measure which has been duly stamped by an Inspector under this Act shall require to be restamped by reason merely of the fact that it is used in any place within the State of (Name of State) other than that in which it was originally stamped.”.

Section 26 — Import of weights and measures.— The section was redrafted to read as follows:—

“26. (1) No weight or measure shall be imported unless it conforms to the provisions of the Standards of Weights and Measures Act, 1956 and the rules made thereunder.

(2) Every importer shall, before making any application for the grant of a licence to import any weight or measure, obtain from the Controller a certificate to the effect that the weight or measure proposed to be imported conforms to the provisions of the Central Act.”.

CHAPTER IV

PENALTIES

Section 27 — Penalty for manufacture, sale or use of non-standard weights and measures.— While considering this and the following sections, it was felt that it would be desirable to combine sections 27, 29 and 30 into one section, as they dealt with similar offences. The redrafted section reads as follows :—

“27. Whoever manufacture any weight or measure, not being a weight or measure manufactured exclusively for export, or sells or keeps or exposes or offers for sale or delivers or causes to be delivered any weight or measure intended to be used in any transaction or for protection or for industrial production —

(i) if the weight or measure is such that it does not conform to the requirements of the Standards of Weights and Measures Act, 1956 or the rules made thereunder, or

(ii) if the weight or measure, being a standard weight or measure, has not been verified or reverified and stamped in accordance with the provision of this Act or the rules made thereunder,

shall be punishable with fine which may extend to two thousand rupees for the first offence and for the second or subsequent offence, with imprisonment for a term which may extend to three months or with fine, or with both.

Explanation I. -- When any weight or measure is found in the possession of any person, he shall be presumed, until the contrary is proved, to have it in his possession for use in transaction, or for protection or for industrial production.

Explanation II. — Where any weight or measure is used or kept for use or sold or offered for sale or supplied or delivered in contravention of the provisions of this section by any employee or agent of a person such person shall be presumed to have abetted the offence and be punished accordingly unless the person proves that the offence was committed by his employee or agent without his knowledge or consent.”.

Section 28 — Penalty for sale or delivery by weight or measure other than standard weights or measures.— It was agreed that section 28 should be recast to bring out its meaning clearly.

Section 31 — Penalty for manufacture of weights, etc., without licence.— While considering this section, the question whether a minimum fine should be prescribed for some of the offences came up. It was agreed that a minimum fine cannot be imposed as the offences have a wide range and cover, for the same offence, a wide variety of users. For example, if a minimum penalty of Rupees fifty is prescribed for the use of non-reverified weights, even a small hawker would have to pay that fine which could not be justified by the volume of trade he carried out. The tendency on the part of the Magistrate would also be to impose only the minimum fine which would not be just in the case of users with large turn-over. It was, therefore, agreed that only the maximum penalty should be provided in the Act. Section 31 was, therefore, redrafted as follows :—

“31. If any person manufactures, repairs, or sells any weight or measure, without obtaining a licence, he shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to two thousand rupees, or with both.”.

Section 32 — Penalty for use of weights or measures in contravention of section 8.— It was agreed that the section should be suitably amended so that the text of section could be incorporated in it. The redrafted section reads as follows :—

“32. Whoever, in relation to any specified class of goods or undertaking —

- (i) uses in any transaction, or for industrial production, or for protection, or
- (ii) deals in, or
- (iii) refers in any contract to,

any unit of mass or measure other than the unit specified by a notification made under section 9 shall be punishable for the first offence with a fine which may extend to two thousand rupees and for a second or subsequent offence with imprisonment for a term which may extend to two years and shall also be liable to fine.”.

Section 33 — Penalty for contravention of section 15.— Here also it was agreed that the section should be suitably amended. The redrafted section reads as follows :—

“33. Whoever makes, manufactures, alters or import, any weight or measure without obtaining approval of the Controller with respect to the model or working drawings thereof, shall be punishable for the first offence with a fine which may extend to ten thousand rupees and for a second or subsequent offence with imprisonment for a term which may extend to five years and shall also be liable to fine.”.

Section 34 — Penalty for contravention of section 16.— It was agreed that the section may be redrafted. The new draft reads as follows :—

“34. Whoever introduces, delivers for introduction into or receives for the purpose of trade, or keeps for sale, offers or exposes for sale or has in his possession for sale any commodity in packaged form which does not conform to the provisions of section 16 shall be punishable for the first offence with a fine which may extend to ten thousand rupees and for second or subsequent offence with imprisonment for a term which may extend to five years and shall also be liable to fine.”.

Section 35 — Penalty for contravention of section 17.— The title of the section would be incorporated suitably in the text. The amended text reads as follows :—

“35. Whoever —

- (i) quotes any price or makes any announcement with regard to the price of any article, thing of service, or
- (ii) issues or prepares any advertisement, price list, invoice, cash memo or other document, literature or poster, or
- (iii) indicates the contents on any label or package, or
- (iv) expresses the quantity or dimension of any article, thing or service

otherwise than in terms of the units of standard weight or measure shall be punishable with a fine which may extend to two thousand rupees.”.

Section 36 —Penalty for fraudulent use, etc., of weights and measures.—While considering this section a discussion arose about the meaning of the word 'false weights or measures'. It was agreed that a definition of 'false weights or measures' should be suitably incorporated in the Act. In the light of the definition, sections 36, 37 and 38 would be recast.

Section 39 —Penalty for delivering or receiving any quantity of article less than, or in excess of the quantity fixed by the weight or measure in the contract.—The following wording which occurs in the Model Draft Revision was approved with some modifications:—

“39. Whoever —

(i) in selling any article, thing by weight or measure delivers or causes to be delivered to the purchaser any quantity of that article or thing less than, or

(ii) in rendering any service by weight or measure renders that service less than, or

(iii) in buying any article, thing by weight or measure demands or receives or causes to be demanded or received from the vendor any quantity of that article or thing in excess of, or

(iv) in obtaining any service by weight or measure demands or obtains that service in excess of,

the quantum fixed by the weight or measure by which the contract or dealing in respect of that article, thing or service has been made, shall be punishable with fine which may extend to five thousand rupees.”

Section 40 —Penalty for forging, etc., of weights and measures.—While considering the question of counterfeit stamps it was pointed out that it is possible in the case of certain weighing and measuring instruments to break the wire attached to the seal without breaking the seal itself. It was, therefore, considered desirable to include a definition of “seal” in the Act. It was also considered that a definition of “counterfeit stamp” should also be included in the Act. In the light of these considerations the section was redrafted as follows:—

“40. (1) Whoever —

(i) counterfeits any stamps affixed on any weight or measure under this Act or any Rules made thereunder, or

(ii) possesses any counterfeit stamp, or

(iii) removes any stamp affixed on any weight or measure under this Act or any rules made thereunder or tampers with any stamp affixed on any weight or measure under this Act or any rules made thereunder, or

(iv) removes any stamp affixed on any weight or measure under this Act or any rules made thereunder and inserts the same into any other weight or measure or

(v) wilfully increases or diminishes or alters in any way any weight or measure under this Act or any rules made thereunder,

shall be punishable for the first offence with imprisonment for a term which may extend to two years and for the second or subsequent offence with imprisonment for a term which may extend to five years and shall also be liable to fine.

(2) Whoever possesses any stamp prescribed under this Act or rules made thereunder without any authority from the Controller or uses or causes to be used any such stamp with a view to representing that such use is authorised by or under this Act or any rules made thereunder shall be punishable for the first offence with imprisonment for a term which may extend to two years and for the second or subsequent offence with imprisonment for a term which may extend to five years and shall also be liable to fine.

(3) Whoever sells, offers or exposes for sale or otherwise disposes of any false weight or measure shall be punishable for the first offence with imprisonment for a term which may extend to one year and for a second or subsequent offence with imprisonment for a term which may extend to three years and shall also be liable to fine.

(4) Whoever sells, offers or exposes for sale or otherwise disposes of any weight or measure which bears thereon a counterfeit stamp shall be punishable for the first offence with imprisonment for a term which may extend to two years and for a second or subsequent offence with imprisonment for a term which may extend to five years and shall also be liable to fine."

Section 41 —Penalty for neglect or refusal to produce weight or measure or package or inspection or verification.— This section was redrafted as follows:—

"41. Whoever, having in his possession, custody or control any weight, measure or package —

(a) refuses or neglects to produce for inspection or verification any such weight, measure, or package or any document or record relating thereto, or

(b) refuses to permit an Inspector to inspect or verify any weight, measure, package, document or record or seal, or obstructs, the entry of the Inspector into any premises,

shall be punishable for the first offence with fine which may extend to two thousand rupees and for a second or subsequent offence with imprisonment for a term which may extend to two years and shall also be liable to fine."

After this section, a new section would be introduced permitting the search of premises and penalty for the obstruction of Inspector performing his duty under the Act.

Section 42 —Penalty for breach of duty by Inspector.— There was considerable discussion about sub section (1). It was agreed that the word "knowingly" should be replaced by the word "wilfully" because the word "knowingly" could create complications and difficulties for the inspector in the performance of his duties. The purpose of the section was to keep a check on Inspector to prevent breach of duty. The section was therefore, provisionally redrafted as follows :—

"42. (1) If an Inspector wilfully stamps a weight or measure in contravention of the provisions of this Act or of the rules made thereunder, he shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

(2) If an Inspector or other authorised officer who enters into any premises in the course of his duty wilfully discloses, except in the performance of such duty to any person any information obtained by him in such premises about any manufacturing process or trade secret, shall be punishable with a fine which may extend to five hundred rupees."

Section 43—Penalty for impersonation of officials.— It was considered that the punishment for impersonation of officials should be increased suitably. The section was, therefore, redrafted as follows :—

"43. Whoever personates in any way the Controller, or the Inspector or any other authorised officer shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both."

Section 44—Penalty for selling or delivering rejected weights and measures.—This section was redrafted as follows :—

"44. Whoever sells, delivers or disposes or causes to be sold, delivered or disposed of any weight or measure which has been rejected on verification under this Act or the rules made thereunder shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both."

Section 45 —Penalty for giving false information.— The text of the Section as given in the Draft Model Revised Bill was approved. This reads as follows :—

"45. Whoever gives information to an Inspector which he may require or ask for in the course of his duty and which such person either knows or has reason to believe to be false shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to two thousand rupees or with both."

In the subsequent discussion it was agreed that there were other offences which had not been covered. An importer as also an exporter who does not follow the provisions of the Act or rules made thereunder should be penalised heavily.

CHAPTER V

MISCELLANEOUS

Section 46—Protection of action taken in good faith.—As the word “Controller” has been so defined as to include Joint, Deputy and Assistant Controller, references to Joint, Deputy and Assistant Controller should be omitted from places where such omission is necessary. Section 46 was redrafted as follows:

“46. No suit, prosecution or other legal proceeding shall lie against the Controller or any Inspector or any other person authorised by or under this Act in respect of anything which is in good faith done or intended to be done in pursuance of this Act or the rules made thereunder.”

Section 47—Controller appointed under this act to be public servants.—Section 47 was redrafted as follows :—

“47. The Controller and every Inspector or any other person authorised by or under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code” (45 of 1860).

Section 48—Cognizance of offences etc.—There was considerable discussion on this section. The point was raised by Shri Bajpai that as the law now stands, offences under the Act are tried by only Presidency Magistrates or the Magistrates of the First Class. But it is very difficult to get First Class Magistrates in the remote corners of the district and as such it causes inconvenience to the prosecuting authorities and also to witnesses. Shri Bajpai had, therefore, suggested that the section should be amended and power should be given to Magistrate of the Second Class to try the offences. It was explained that Magistrates of the Second Class are empowered to impose fines not exceeding rupees five hundred only or sentence for imprisonment for a term not exceeding six months. Therefore, if the power is given to the Magistrate of Second Class to try an offence, the position regarding fines would be that they would be automatically limited to rupees five hundred only. A Magistrate of the First Class is empowered to impose a fine of two thousand rupees and imprisonment upto two years. It was further explained that no appeal lies against the decision of the Magistrate of the First Class if he imposes a fine for a sum not exceeding rupees fifty but in the case of the Magistrate of the Second Class every fine imposed by the Magistrate can be challenged by appeal. Therefore, difficulties are likely to arise if the power to try an offence is given to a Magistrate of the Second Class. In view of the legal position explained by the Chairman, the members agreed that the existing position should be retained.

The other point was raised by Shri Bajpai to the effect that unless a power to make prosecution is given to the Inspector and other officers, it will be difficult to launch prosecution under the Act. It was agreed that such conditions will be met by the proposed provisions of sub-section (1).

There was considerable discussion about the desirability of including a section to cover summary trials. The members and the Chairman were of the unanimous opinion that provision for summary trials should be included in the Act as sub-section (3) to section 48.

Inspectors and other officials can be appointed as Public Prosecutors in the Court under Cr. P.C. There is no need to make special provisions in the Act for the purpose.

The redrafted section reads as follows:—

“48. (1) No court shall take cognizance of an offence punishable under this Act except upon complaint in writing made by the Controller or any officer authorised in this behalf by the Controller by general or special order.

(2) No court inferior to that of a Presidency magistrate or a magistrate of the first class shall try an offence punishable under this Act.”

Section 49—Composition of offences.—The question whether the power to compound offences should be limited to offences which are punishable with fine only or whether all offences under the Act should be made compoundable was considered. Shri Madhusudan stated that the Controller of Andhra Pradesh is of the opinion that every offence under the Act should be compoundable. The Chairman pointed out that according to the Code of Criminal Procedure, the offences have been divided, for the purposes of determining the compound in

into three categories, *viz.* (i) minor offences which may be compounded without intervention of the Court, (ii) comparatively graver offences which may be compounded with the permission of the Court, and (iii) grave offences which cannot be compounded at all. The Chairman pointed out that if a power is given to compound every offence, grave offences under the Act may also be compounded and in many cases such compounding may amount to stifling of prosecution which is forbidden by law. According to the Law of Contract any contract, the consideration of which is the stifling of the prosecution, is void. The same principle should be made applicable to the offences because the stifling of prosecution for grave offences may be prejudicial to public interest and detrimental to the community in general. The consensus of the opinion was that the power to compound should be given for only first offences of such minor character as are punishable by fine only. Shri Madhusudan expressed his dissent and he was of the view that every first offence under the Act should be made compoundable. Sub-section (1) of section 49 would, therefore, be re-examined in the light of the consensus of opinion. 49(2) required to be checked against Section 345 of the Criminal Procedure Code.

Section 50—Stamped weights, etc., to be presumed to be correct.—The section was redrafted as follows:—

“50. A weight or measure duly stamped under the provisions of this Act and the rules made thereunder shall be presumed to be correct until its inaccuracy is proved”.

Section 51—Presumption as to certain facts in certain cases.—It was considered that the language of this section was not happy and it needed to be recast.

Section 52—Offences by Companies.—The section as given in the Draft Model Revision was approved. It reads as follows:—

“52. (1) If the person committing an offence under this Act is a company, every person who, at the time the offence was committed, was in-charge of, and was responsible to the company for the conduct of the business of the Company as well as the Company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or convenience of, or is attributable to any neglect on the part of any director, manager, secretary or other officer he shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation—For the purposes of this section —

(a) “company” means any body corporate and includes a firm or other association of individuals ; and

(b) “director”, in relation to a firm, means partner in the firm.’

Section 53—Delegation of powers.—This section was approved as given in the Draft Model Bill. It reads as follows:

“53. The State Government may, by notification in the *Official Gazette*, direct that any power exercisable by it under this Act or rules made thereunder shall, in relation to such matters and subject to such conditions, as may be specified in the direction be exercisable also by such officer or authority subordinate to the State Government as may be specified in the notification.”

Section 54—Limits of error to be tolerated in weights and measures.—In view of the fact that the specifications have to be laid down under the Standards of Weights and Measures Act and Rules and would also contain the limits of error to be tolerated in weights and measures, it was agreed that section 54 should be omitted from the Revised Bill.

Section 55—Repeal—The section was worded as follows:

“55. The (Name of State) Weights and Measures (Enforcement) Act, 1958, is hereby repealed.”.

Section 56—Power to make rules.—There was considerable discussion on the power to make rules. The following recorded clause was generally approved. Some portions of the discussions are also suitably indicated at appropriate places.

“56. (1) The State Government may, by notification in the *Official Gazette*, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters, namely—

(a) the place at which, the manner in which and the person by whom, reference standards shall be kept,

(b) the places at which and the person by whom and the manner in which, secondary standards shall be kept,

(c) the places at which, the person by whom and the manner in which, working standards shall be kept,

(d) the authority by which and the manner in which and the intervals at which secondary standards shall be verified and stamped,

(e) the authority by which and the manner in which and the intervals at which working standards shall be verified and stamped,

(f) the categories and number of standard weighing and measuring instruments and the manner in which and the intervals at which such instruments shall be verified and stamped.

(To consider whether section 7 regarding standard weighing instruments is necessary in view of the definition of weights and measures given in the Act),

(g) the manner in which weights or measures shall be stamped by an Inspector,

(h) the qualifications, training, functions and duties of Inspectors and other officials appointed under this Act,

(i) the verification and stamping of weights or measures and the period within which they should be reverified,

(j) inspection of weights and measures,

(k) the seizure, detention and the disposal of weights and measures which do not conform to the provisions of the Standards of Weights and Measures Act, 1956 or the rules made thereunder,

(l) the books, accounts and records relating to weights and measures to be maintained and the manner in which they are to be maintained or produced,

(m) *Omitted.*

(n) the limits of errors which may be tolerated in selling articles by weight and measure generally or as regards any trade or class of trades,

(o) the form and manner in which appeals may be preferred and the procedure for hearing of appeals,

(p) (i) the fees which may be levied for the grant or renewal of any licence or for making any alterations therein, and the method of collection thereof,

(ii) the fees which may be levied and collected for the verification or adjustment of any weight or measure,

(iii) the fees which may be levied and collected for the issue of duplicate copies of licences or certificates of verification,

(q) This may be deleted

(r) labelling and marking of packages, inspection of contents, specifying standard contents, specifications for packages and determination of permissible errors of the contents of commodities in packaged form,

(s) designating the authority for testing models for approval, particulars of documents to be submitted with models, and the manner of the publication of the decision of the Controller with regard to the approval of the model.”.

(The question whether the report of the specified authority with regard to any model which was approved by a Controller should be published by the Controller was discussed. The consensus of the opinion was that the duty to publish such report should not be passed on to the Controller. It was agreed that a statutory provision should be made requiring the manufacturer of the model which had been approved to publish the report of the prescribed authority and the sketches of the model etc. at his own cost but such publication may be made in such a manner as may be prescribed.

A point was raised by Shri Prem Prakash as to whether the examination and approval of models was within the ambit of States Weights and Measures Act. He was of the opinion that the approval of models was a part of the work of establishment of standards because model approval gave the standard data for the model which should be known to every Inspector all over the country.

He further argued that the approval given by one State to any model was not binding on other States. This would imply that a manufacturer would have to submit a model to every State. But this would create further problems as one State may approve the model, while another may not. It, therefore, became an inter-State problem, besides being a part of the work relating to the establishment of standards of weights and measures. It should be examined whether testing and approval of model should be included in the Central Act and not in the State Act.

It was agreed that the items included in the rule making powers were not exhaustive. In view of the alterations made, a revised draft would be necessary to examine carefully what other matters are required to be included in this section.)

(The usual residuary clause with regard to framing of rules in relation to any matter which is not covered in any item specified in the section should also be included.)

Section 56 was further redrafted as follows:—

“56. (3) In making any rule under this section the State Government may provide that a breach thereof shall be punishable with fine which may extend to one thousand rupees.

(4) The power to make rules under this section shall be subject to the condition of previous publication in the *Official Gazette*.

(5) All rules made under this section shall, as soon as may be, after they are made, be laid before the State Legislature.”

Section 57—Saving.—The Section may be so amended as to make it clear so that the provisions of the Act do not apply to the Armed Forces.

After considering all the sections, the Chairman indicated that it would be desirable to discuss any additional suggestions which any member desired to make. He further said that the discussion of definitions should be taken last so that their relevance to the Act could be visualised in a broad spectrum. The following points emerged :—

(1) Shri Tewary said that the suggestion of Uttar Pradesh to provide for registration should be taken into account. The general opinion was not in favour of compulsory registration. It was, however, agreed that this one section could be made optional so that any State which wanted to adopt it could do so, while those which did not consider it necessary need not incorporate it in their Act.

- (2) The following additional section may be included in the Penalty Chapter :—

Additional Section

“Whoever tampers with, or makes any alterations in, any licence granted or renewed under this Act without the authority of the Controller or any person authorised by him in writing in this behalf, shall be fined to the extent of rupees two thousand.”.

- (3) A provision should be made with regard to the succession in the business of any licensee or for the transfer of the business of the licensee and also for unauthorised transfer of any licence.

(4) Shri Tewari said that a security deposit should be asked for from repairers, and even manufacturers and dealers. The Chairman said that this could be covered under the licence. While considering the section relating to the licensing of manufacturer and the deposit to be furnished by repairers, a discussion arise about the stamping of weights manufactured in one State which are intended or sent for use in another. An enquiry was made whether a weight or measure manufactured stamped in one State could not be held to be legal in another State, and whether the States could enter into any mutual agreements on this point.

The Chairman pointed out that the Weights and Measures Act being a State Act, its provisions would not be valid in another State. Any mutual agreement entered into by States would also be invalid in law and could be challenged by any person as it would have no basis in law. The present informal arrangements had also proved inadequate. The movement of weights and measures between two or more States could not, therefore, be covered in the State Act. The simple solution to the problem was to act under Article 258-A of the Constitution so that a solution satisfactory to all the States as also the trade could be devised. If this was not possible and as into state commerce and trade came under the Union List, a separate legislation may have to be framed by the Centre to cover the purposes of inter-state movement of weights and measures or other problems of an inter-State character.

It was agreed that the following two sub-sections may be added to section 14 of the Revised Draft Model Bill dealing with the licensing of manufacturers, repairers and dealers, viz. “Prohibition or manufacture, etc., of weights and measures without licence.”.

“(2) Every licence issued under this Act shall be subject to such conditions, restrictions and limitations as may be prescribed.

(3) The Controller may require every licensee under this Act to furnish security for such sum not exceeding two thousand rupees as may be prescribed.”.

The security which may be demanded from a licensee and the manner in which and the conditions subject to which such security shall be furnished should be covered by Rules.

(5) A question was raised whether there should not be a provision to allow the States to prescribe repairing charges. It was pointed out by members that unduly heavy repairing charges were being realised by repairers. It was necessary to curb this evil practice. The discussion showed that it would be impossible to fix charges for repairs, as repairs were of innumerable types. The quality of repairs also varied from repairer to repairer. It would, therefore, be practically impossible to cover all types of repairs. Further, the charges to be collected by the repairer for repairing various types of weights and measures could not possibly be fixed under this Act as it may go beyond the ambit of law. Under the Constitution every person has a fundamental right to carry on his trade, profession and business. Only reasonable restrictions could be put on this freedom in the public interest. Fixing of repair charges in the Rules would go beyond the scope of the Constitution. Moreover, the extent of repair may vary from instrument to instrument. It was, therefore, agreed that while extensive powers could not be assumed by the Government, certain restrictions on repairs of a simple type could be covered under the rule making powers.

After considering the various suggestions the Chairman took up discussion of the title and the definitions.

The question whether in the short title of the Bill it should be clearly indicated that the Bill was intended to implement the Standards of Weights and Measures Act was considered. The members were of the opinion that the inclusion of such word as would indicate that the Bill is intended to implement the Standards of Weights and Measures would make the short title too long and it would be inconvenient to mention such a long title in administrative and other matters.

It was agreed that the short title should be :

“(Name of the State) Weights and Measures Bill”.

The Chairman pointed out that the long title explained the scope of the Act and was important when cases were considered in a court of law. The long title should, therefore, be precise but should clearly state the object. The following long title was approved:—

A BILL

to provide for the implementation of the standards of weights and measures and for matters connected therewith or incidental thereto.

The following formula was approved :

BE it enacted by the Legislature of the State of (Name of State) in the———
Year of the Republic of India as follows :

Chapter I was then considered and the definitions discussed in detail.

CHAPTER I

PRELIMINARY

Section 1—Short title, extent and commencement.—Section 1 was approved after discussion.

1. (1) This Act may be called the (Name of State) Weights and Measures Act.

(2) It extends to the whole of the State of (Name of State).

(3) It shall come into force on such date as the State Government may, by notification in the official Gazette, appoint and different dates may be appointed for different provisions of this Act or for different areas or for different classes of undertakings or different classes of goods.

It was considered that the words “undertakings” and “goods” need not be defined because they were well understood and had wide connotations which may not be adequately covered by any definition.

Section 2 Definitions.—The definitions were then considered.

(a) “commodity in packaged form”—

(i) in the definition for “commodity in packaged form” the question whether it should include “bottled” commodities would need examination. The definition needed to be studied further to ascertain whether any item had been left out from it and whether it was fully comprehensive ;

(ii) this part of the definition was redrafted as follows:—

“commodity which is not packaged in any manner but which is intended to be sold without any weightment or measurement at any price per unit of weight or measure, but does not include any auxiliary container or wrapper used for the transportation of packages if every individual package contained in or enclosed by, such auxiliary container or wrapper, as the case may be, conforms to the requirements of this Act.”;

(b) in the definition of “Controller” it may be checked up whether the word “every” is necessary ;

(c) the definition of “dealer” was changed as follows :

“dealer” means any person who, or a firm, or a Hindu undivided family which carried on, directly or otherwise, the business of buying, selling, supplying or distributing any weight or measure, whether for cash or for deferred payment or for commission, remuneration or other valuable consideration, and includes—

(i) a commission agent who carries on such business on behalf of any principal,

(ii) an importer who sells, supplies, distributes or otherwise delivers any weight or measure to any user, manufacturer, repairer, dealer or any other person' ;

In the definition of "dealer" item (iv) should be omitted and in its place a proviso should be inserted to the following effect :—

"Provided that a manufacturer who sells, supplies, distributes or otherwise delivers any weight or measure to any dealer shall not be deemed to be a dealer within the meaning of this clause." ;

(d) a definition of "use" in industrial production was not considered necessary in view of its obvious meaning ;

The terms export and import were defined as follows :—

(e) "export", with its grammatical variations and cognate expressions, means taking out of India to a place outside India ;

(f) "import", with its grammatical variations and cognate expressions, means bringing into India from a place outside India ;

The term "Inspector" was defined as follows :—

(g) "Inspector" means an Inspector, appointed under section——— and includes a Senior Inspector, an Assistant Inspector or any other person designated as Inspector under that section ;

(h) a definition of "instruments used for ensuring human safety" was not necessary in view of the definition of "use in protection" ;

The term "manufacturer" was defined as follows :—

(i) "manufacturer" means a person who—

(i) makes or manufactures any weight or measure ; or

(ii) makes or manufactures some part of any weight or measure and acquires other parts of such weight or measure from any other person and assembles the same ; or

(iii) does not himself make or manufacture any weight or measure but assembles any parts made or manufactured by others ; or

(iv) claims any weight or measure, not made, manufactured or assembled by him, as a weight or measure manufactured by himself ; or

(v) imports any weight or measure for use by himself in any transaction or for protection or for industrial production ;

Mint was defined as follows :—

(j) "Mint" means the mint of the Central Government ;

(k) it should be considered whether firm should be included in the definition of "person" ;

(l) "prescribed" means prescribed by rules made under this Act ;

(m) "reference standards" means the set of standard weights or measures or both supplied to the State Government by the Central Government in pursuance of sub-section (2) of section 15 of the Standard of Weights and Measures Act, 1956 (Central Act 89 of 1956) ;

(n) "repairer" means a person who adjusts, cleans, lubricates, paints or repairs any weight or measure or does any other thing to ensure that any weight or measure conforms to the requirements of this Act ;

(o) "sale", with its grammatical variations and cognate expressions, means any transfer of property in any weight or measure by one person to another for cash or for deferred payment or for any other valuable consideration, if it is completed within the State of (Name of State) and include a transfer of any weight or measure on hire purchase or other system of payment by instalment but does not include a mortgage or hypothecation of or a charge or pledge on, any weight or measure ;

Since this definition is very important, the Chairman felt that before finalisation members should consult their respective Legal Remembrancers with regard to this definition.

(p) "stamp" means a mark which is made with a view to certifying the correctness of any weight or measure, whether by impressing, casting, engraving, etching, branding or by any other means ;

(q) "standard weight or measure" means any unit of mass or measure referred to in sub-section (1) of section 13 of Standard of Weights and Measures Act, 1956 (Central Act 89 of 1956);

(It should be considered whether this definition was necessary in view of definition of weights or measures given later).

(r) In the definition of "use for protection" the word "vegetation" should also be inserted. The definition would read as follows:—

"use of protection" means use for the purpose of carrying out measurements which are, or are intended to be utilized, directly or indirectly, for ensuring or protecting the well being of any individual, animal, commodity, vegetation or thing or any individual animals, commodities, vegetation or things generally ;

(s) "use in transaction" means use for the purpose of determining or declaring the quantity of anything in terms of measurement of weight or measure in or in connection with—

- (i) any contract, whether by way of sale, purchase, exchange or otherwise ; or
- (ii) any assessment of royalty, toll, due or other dues ; or
- (iii) the assessment of any work done or services rendered ;

The question was raised whether the artificial distinction now made between "trade" and "non-trade" weights and measures even before they were put into use could be eliminated by the above definition. It was agreed that it would cover it. It may, however be desirable to include a provision for stamping of weights or measures in the custody of or which are manufactured by a manufacturer. The provision should indicate that such weights or measures should require stamping.

(t) "verification", with its grammatical variations in relation to a weight or measure, includes the process of comparing, checking or testing such weight or measure and also includes reverification;

(u) "weights or measures" means weights or measures specified by or under the Standards of Weights and Measures Act, 1956 and includes :

instruments and devices for weighing or measuring them, whether singly or in combination, and any appliances, accessories and parts associated with any or all of such instruments or devices.

(It was considered that (ii) of the definition was not necessary as transactions, protection etc. are defined separately in the Act.)

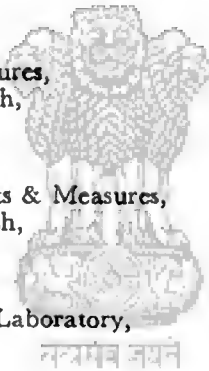
The Chairman thanked Shri Tewary and his officers and staff for the excellent arrangements made for the meeting. He thanked the members for the keen debate on all issues which helped to clarify the various points of view on the subject and enabled the Committee to reach agreed solutions. The members then thanked the Chairman for the patient and calm manner in which the deliberations of the Committee were conducted. It was recommended that the next meeting may be held in the last week of May in Mysore City (Mysore State), after the Budget Session of Parliament.

THIRD MEETING—MYSORE (16—18 JULY, 1968)

MINUTES OF THE THIRD MEETING OF THE WEIGHTS AND MEASURES (LAW REVISION) COMMITTEE

The Third Meeting of the Weights and Measures Law Revision Committee (Maitra Committee) was held on 16, 17 and 18 July, 1968 at the Chamundi Guest House in Mysore. The following were present :—

1. Shri S. K. Maitra,
Joint Secretary and Legislative Counsel, Ministry of Law,
New Delhi (Chairman).
2. Shri Kanaya Pershad,
Controller of Weights & Measures,
Government of Andhra Pradesh,
Hyderabad.
3. Shri M. V. Pandit,
Deputy Controller, Weights & Measures,
Government of Maharashtra,
Bombay.
4. Shri Syed Ahmed Khan,
Joint Controller of Weights & Measures,
Government of Mysore,
Bangalore.
5. Shri Abdul Qayum,
Controller, Weights & Measures,
Government of Uttar Pradesh,
Lucknow.
6. Shri V. D. Bajpai,
Deputy Controller of Weights & Measures,
Government of Uttar Pradesh,
Lucknow.
7. Shri Prem Prakash,
Scientist, National Physical Laboratory,
New Delhi.
8. Shri V. B. Mainkar,
Director, Weights & Measures,
Ministry of Commerce,
New Delhi.



Welcoming the members to the meeting of the Committee, Shri Maitra said that the revision of the Draft Model Weights and Measures Bill which was now before the Committee should be considered clause by clause so as to finalise it early. He further said that once the revision of the Draft Model Weights and Measures Bill was completed, it would be possible to consider the revisions to be effected in the Central Act. He then thanked the Government of Mysore and Shri Khan and his staff for making arrangements for the meeting.

Clause by clause discussion of the Model Weights and Measures Bill circulated with the Directorate of Weights and Measures letter No.15(7)/66-W&M dated 18th June, 1968 was then taken up. The clause numbers given in this record refer to the clauses in the Draft Model Bill mentioned above.

CHAPTER I

The long title and Section 1 were approved.

In the definition of "commodity in packaged form", item 2(b)(i) was reworded as follows:—

"(i) commodity packaged, whether in any bottle, tin or otherwise, or exhibited, in any manner before sale in units suitable for sale, whether wholesale or retail."

Item 2(b)(ii)—There was considerable discussion whether the commodities which are not packaged in any manner but which are intended to be sold without any weighment or measurement should be included in the Weights and Measures Act. The opinion was strongly expressed that if the trade covered by this requirement was not brought under the purview of the law, it would leave a wide gap through which the law on weights and measures could be easily sidetracked by unscrupulous traders. The provision covered trade by heaps, eye estimation and the like. After discussion it was considered desirable to give this provision further thought, and also to consider whether sale by number should also be brought under the ambit of this definition.

The following definitions were approved as proposed in the draft Model Bill :—

- (c) " Controller ",
- (d) " counterfeit stamp ",
- (e) " dealer ",
- (f) " export ",
- (g) the definition of " false weight or measure " was altered as follows :—
 - ' (g) " false weight or measure " means any weight or measure which—
 - (i) does not conform to the standards of that weight or measure specified by or under the Central Act or,
 - (ii) which has not been duly verified and stamped under this Act.'

The following two definitions were approved as proposed in the draft Bill :—

- (h) " import ",
- (i) " Inspector ".
- (j) In the definition of " manufacturer " a mention of the word " firm " was made as follows :—
 - ' " manufacturer " means a person who or a firm which,—'

Item (j) (iii) was discussed. It was agreed that the following words should be added at the end of (j) (iii) :—

" and claims the end product as a weight or measure manufactured by himself,".

There was considerable discussion on clause 2(j)(iv) which indicates that " manufacturer" should include a person who claims any weight or measure, not made, manufactured or assembled by him, as a weight or measure manufactured by himself. Although this clause was inserted in pursuance of the decision arrived at by the Committee at its meetings both at Calcutta and Varanasi, it was reconsidered by the Committee. It was felt that while it successfully covered certain cases, it opened many avenues for malpractices because persons who did not have any factory or any premises for making their manufactures may take out the manufacturer's licence and on the basis of such licence may obtain quotas and sell such quotas in the black market. Further, some traders may claim to be manufacturers simply by getting the weights and measures from other States and passing them off as their own. Such spurious " manufacturers " should not be legally recognised in the interest of a genuine development of the weights and measures industry in the country.

It was, therefore, decided that the clause 2(j)(iv) should be omitted.

(j)(v) This clause was also reconsidered. It was felt that in view of the specific provisions made in clause 14 about import of weights and measures, this clause was not necessary.

The Committee, therefore, decided to omit this clause.

(k) In the definition of " mint ", the word " the " after mint should be substituted by " a ".

(l) The definition of "person" was discussed thoroughly. It was agreed that as the Weights and Measures law had wide application, it was necessary to clarify and amplify the definition of 'person' suitably. The reworded definition would read as follows :—

' (l) "person" includes,—

- (i) every Government Department or office ;
- (ii) every organisation established or constituted by the Government ;
- (iii) every local authority within the territory of (*Name of State*) ;
- (iv) every co-operative society, which is not a body corporate ; and
- (v) every society registered under the Societies Registration Act, 1860 (Act 21 of 1860).'

(m) The definition of "premises" was approved as in the Draft Model Bill.

(n) The definition of "prescribed" was approved as in the Draft Model Bill.

(o) The definition of "reference standards" was approved as in the Draft Model Bill.

(p) After some discussion, it was agreed that in the definition of "repairer" the words "does any other thing" should be substituted by "renders any other service to such weight or measure".

(q) The definition of "sale" was approved as in the Draft Model Bill.

(r) The definition of "scale" was approved as in the Draft Model Bill.

(s) The definition of "stamp" was approved as in the Draft Model Bill.

(t) The definition of "standard weight or measure" was approved as in the Draft Model Bill.

(u) In the definition of "use for protection", for the words "carrying out measurements which are, or are intended to be" substitute "carrying out any weighing or measurement which is or is intended to be".

(v) In the definition of "use in transaction," for the words "declaring the quantity of anything in terms of measurement of" substitute "declaring the quantum of anything in terms of any unit of".

(v)(i) In sub-clause (i), for the words "whether by way of sale, purchase, exchange or otherwise" substitute "whether for sale, purchase, exchange or any other purpose".

(v)(ii) The sub-clause was approved as in the Draft Model Bill.

(v)(iii) After the words "work done" add "wages due".

(w) In the definition of "verification", after the words "testing such weight or measure" insert "with a view to ensuring that such weight or measure conforms to the standards laid down by or under the Central Act".

The question whether the word "calibration" should also be inserted in the definition of "verification" was considered in detail. It was felt that calibration was an aid to verification and was a step in the process of verification and that calibration itself may require verification because calibration could also go wrong. It was not considered necessary to cover calibration in the definition of verification.

(x) The definition of "weight or measure" was approved as in the Draft Model Bill.

CHAPTER II

3.(1) After "other than the standard weight or" add "as the case may be".

(2) Approved as in the Draft Model Bill.

(3) Approved as in the Draft Model Bill with correction of minor typing errors.

4.(1) Insert the word "that", after the words "or undertakings" and transpose the word "such" before "weight" after "or".

- (2) Approved as in the draft Model Bill.
- 5. Approved as in the Draft Model Bill.

CHAPTER III

- 6. Approved as in the draft Model Bill.
- 7.(1) Approved as in the draft Model Bill.
- (2) Omit word " standards " in the second line.
- (3) Approved as in the draft Model Bill.
- (4) Approved as in the draft Model Bill.
- (5) Approved as in the draft Model Bill.
- 8.(1) Approved as in the draft Model Bill.
- (2) Omit the word " standards " in the second line.
- (3) Approved as in the draft Model Bill.
- (4) Approved as in the draft Model Bill.
- (5) Approved as in the draft Model Bill.
- (6) Approved as in the draft Model Bill.

CHAPTER IV

- 9. Approved as in the draft Model Bill.
- 10. Approved as in the draft Model Bill.
- 11. Approved as in the draft Model Bill.

12.(1) There was considerable discussion on points arising out of this sub-clause. It was agreed that it would be desirable to spell out that where the owner repaired his own weights and measures and he had the technical competence to do so, he should not be required to take out a licence, as otherwise the permission regarding the licencing of the repairer may be regarded as unreasonable restriction. A proviso was, therefore, added as follows :—

" Provided that a person who *bonafide* repairs in his premises any weight or measure owned by him and who has the technical competence and the necessary equipments to do so, shall not be required to take out a licence as required by this sub-section."

- (2) Approved as in the draft Model Bill.
- (3) Approved as in the draft Model Bill.

After this sub-clause another sub-clause may be added as follows to cover sale of valid weights and measures by one user to another :

(4) Nothing in this section shall apply to the sale by a user, who is not a manufacturer, dealer or repairer, of any weight or measure of such description as may be prescribed, if such sale is made; with the written permission of the Controller.

- 13. Approved as in the draft Model Bill.
- 14. Approved as in the draft Model Bill.
- 15. Approved as in the draft Model Bill.

CHAPTER V

16. There was considerable discussion on clause 16. It was finally agreed to adopt clause 16 in its entirety in view of the great expansion of the trade in packaged commodities which was now taking place in the country, and the protection this clause afforded to the consumer.

17. Approved as in the draft Model Bill.

CHAPTER VI

18. Sub-clauses (1), (2) and (3) were approved as in the draft Model Bill.

Sub-clause (4) was discussed thoroughly. It was agreed that while adequate training for Inspectors and other officials was essential, such a provision should be made in the Rules to give it more flexibility. It was also necessary to take administrative action to provide such training and to improve the quality of the Inspectors and others so as to enable the Weights and Measures Organisations to undertake better enforcement and take up the sophisticated tasks envisaged for them in the revised law.

It was decided to omit the sub-clause about training from the Act and to amplify it suitably in the Rules.

19. Approved as in the draft Model Bill.

20. Approved as in the draft Model Bill.

21. Approved as in the draft Model Bill.

22. Approved as in the draft Model Bill.

23. Approved as in the draft Model Bill.

24. Approved as in the draft Model Bill.

25. Approved as in the draft Model Bill.

26. After considerable discussion it was agreed that unless the maximum limit of the fee to be levied by the State Government was indicated in the clause, the clause may be struck down by the courts, if challenged, on the ground of excessive delegation.

It was agreed that in view of the complexity of tasks to be handled in the future, the maximum fee should be fixed at rupees five thousand.

The Committee, therefore, decided to amend the clause as follows :—

After "such fees" insert, "not exceeding five thousand rupees".

27. Approved as in the draft Model Bill.

28. Approved as in the draft Model Bill.

29. Approved as in the draft Model Bill.

30. Approved as in the draft Model Bill.

31. Approved as in the draft Model Bill.

It should be considered whether there was an overlap between 27(1) and 31.

CHAPTER VII

32. In place of words "or with fine, or with both" substitute "and shall also be liable to fine".

33. (1) In place of words "or with fine, or both" substitute "and shall also be liable fine".

(2) After "weight or measure" in the second line insert "at any place".

In place of words "or with fine or both" substitute "and shall also be liable to fine".

(3) In place of words "or with fine or both" substitute "and shall also be liable to fine".

34. Approved as in the draft Model Bill.

35. Approved as in the draft Model Bill.

36. Clause 37 was approved as in the draft Model Bill, but was renumbered as 36, to give a sequence to penalties under clauses 4, 5 and 16.

37. Clause 36 should be renumbered as 37, to obtain sequence of penalty clauses.

In the original clause 36, for words "ten thousand rupees" substitute "five thousand rupees".

38. For "five thousand rupees" substitute "two thousand rupees" and for words "or with both" substitute "and for a second and subsequent offence, with imprisonment for a term which may extend to five years and shall also be liable to fine".

39. Readjust words in the title as shown below :

"Penalty for delivering any article less than or receiving any article in excess of the quantity fixed by weight or measure in the contract."

The clause was approved as in the draft Model Bill with minor corrections.

40. After the word "stamp" add "or seal" in items (i), (ii), (iii), (iv) and (v) of sub-clause (1).

(2) After the word "stamp" wherever it occurs insert "or seal".

(3) After the word "stamp" wherever it occurs insert "or seal".

41. Approved with additions as indicated below :

After clause 41 a new clause should be inserted providing for the power to detain a person found committing an offence under the Act and to take him to the nearest Magistrate.

42. There was considerable discussion on this clause. It was explained that the clause was based on similar clause occurring in the Excise and Customs laws. It was, however, argued that there were other laws or rules under which an erring Inspector or other officials could be punished. Such a clause may lead to undue pressure being exerted on the Inspectors in the discharge of their duties and would prove a disincentive in their efficient functioning. The Inspector came in contact with a vast section of the population and any disincentive would affect their effectiveness and also affect the interest of the consumer.

As most of the members were opposed to this clause, it was agreed that it should be reconsidered.

43. (1) There was considerable discussion on sub-clause (1). Here also it was argued that failure in duty could be covered by many Government rules, orders etc. and it was not necessary to cover it in a separate section. It was, however, necessary to penalise contravention of the Act by Inspectors. It was, therefore, decided to omit the present 43(1) and substitute it by the following new sub-section:

"If an Inspector wilfully verifies, stamps any weights or measures in contravention of the provisions of this Act or of any rule made thereunder, he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both."

(2) Approved as in the draft Model Bill.

44. Approved as in the draft Model Bill.

45. After some discussion, it was agreed that after this clause the following proviso should be added :

'Provided that nothing in this section shall apply to the sale as scrap of any rejected weight or measure.'

46. Approved as in the draft Model Bill.

47. In place of words " two years or " insert " two years and also ".

48. Approved as in the draft Model Bill.

49. Approved as in the draft Model Bill.

50. There was considerable discussion on compounding offences. It was argued that the previously accepted principle that only offences punishable with fine should be compounded was not adequate. There would be other offences which could be compounded.

It was then agreed that the offences which could be compounded should be mentioned individually. It was further agreed that compounding should be applicable only to first offences. It was decided that first offences under clauses 32 (Penalty for manufacture, sale or use of non-standard weights and measures), 33 (Penalty for sale or delivery by weight or measure other than standard weights or measures), 34 (Penalty for manufacture of weights etc. without licence), 35 (Penalty for use of weights or measures in contravention of section 4), 36 (new) (Penalty for delivering any article less than or receiving any article in excess of the quantity fixed by weight or measure in the contract) could be compounded. The clause should be amended accordingly and it should be clearly provided that the power to compound an offence shall not be available for the second or subsequent offence.

51. Approved as in the draft Model Bill.

52. Approved as in the draft Model Bill.

CHAPTER VIII

53. Approved as in the draft Model Bill.

54. Approved as in the draft Model Bill.

55. Approved as in the draft Model Bill.

56. (1), (2) and (3) Approved as in the draft Model Bill.

(4) After the words " condition of " insert "the rules being made after ".

(5) Approved as in the draft Model Bill.

57. The exemption to be given to Defence would be drafted.

Additional Clauses.—After some discussion, it was agreed that further thought should be given as to whether additional provisions should be made with regard to all or any of the following matters :—

- (i) power to exempt,
- (ii) power to remove difficulties,
- (iii) protection of actions taken under the repealed Act, and
- (iv) exemptions from observing requirements of rules as in Rule 26 of Bombay Rules.

The Committee decided that the draft Bill should be revised in the light of the decisions of the Third meeting and the revised draft should be circulated to the member countries of the International Organisation of Legal Metrology (OIML) and other interested international bodies for their comments. In the meantime, the amendments to be made to the Central Act should be drafted for consideration in the Fourth Meeting and a draft report may also be prepared, if possible.

It was decided that the fourth meeting should be held at a suitable place in Andhra Pradesh preferably in the first fortnight of January, 1969.

FOURTH MEETING—TIRUPATI 21–24 MAY, 1969

MINUTES OF THE FOURTH MEETING OF THE WEIGHTS AND MEASURES (LAW REVISION) COMMITTEE

The fourth meeting of the Weights and Measures Law Revision Committee (Maitra Committee) was held at Tirupati on 21st–24th May, 1969. The following were present:—

1. Shri S.K. Maitra,
Joint Secretary to the Govt. of India and Legislative Counsel,
Ministry of Law (Chairman).
2. Shri V.B. Mainkar,
Director,
Weights & Measures,
Ministry of ID, IT & CA.
3. Shri Prem Prakash,
Scientist,
National Physical Laboratory.
4. Shri Kanaya Pershad,
Controller of Weights & Measures,
Andhra Pradesh.
5. Shri N.P. Satpute,
Deputy Director (W & M),
Govt. of Maharashtra.
6. Sayed Ahmed Khan,
Joint Controller of Weights and Measures,
Mysore.
7. Shri Abdul Qayum,
Controller of Weights and Measures,
Uttar Pradesh.



2. The Committee took up detailed consideration of Chapter II on "Significance of Weights and Measures" which had been earlier circulated to all the Members. All the members appreciated the data and the arguments presented in the Chapter.

3. In essence, the Chapter indicated the estimates of consumer expenditure and value of cash purchases, *i.e.*, retail transactions based on the data published by National Sample Survey. The importance of proper enforcement of weights and measures was emphasised in the light of its effect on the national economy.

4. The necessity for extension of enforcement of weights and measures to various fields of economic activities, particularly to the manufacturing industries, in the context of the rapid industrialisation of the country was also stressed in the Chapter.

5. Another important area in which weights and measures were increasingly used was in ensuring public health and safety. The detailed account of the necessity of proper enforcement in this field was considered. It was agreed that work in this sphere should also be taken up in a phased programme. Similarly, the Committee felt that in the field of education also there was great need to ensure use of accurate weights, measures, balances and instruments with a view to inculcate in the students the value of accuracy in learning science.

6. The Committee approved Chapter II, and authorised the Chairman and the Director, Weights and Measures, to edit it as might be necessary.

7. The Committee then considered Chapter III dealing with the 'Background of the Problem' which had been circulated earlier. This Chapter dealt with the historical evolution of weights and measures and their legal regulation in India for the last 5-6 thousand years with particular emphasis on the last 150 years. It was agreed that though the Standards of Weights and Measures Act, 1956, sought to establish standards of six basic units, the Central and state Bills should reflect the rapid progress in the field of metrology all over the world and be thoroughly informed with the new international concepts and developments. It was considered essential that the recommendations of the General Conference on weights and measures as also of the International Organisation of Legal Metrology should form the basis on which the revised Central and State laws on weights and measures should be built up.

8. Chapter VI dealing with 'Revision of the Model (State) Weights and Measures (Enforcement) Acts', was then considered. The Chapter was also approved with some corrections. Taking into consideration the various points discussed in the meeting it agreed that this Chapter should be modified, where necessary.

9. Thereafter, the Committee took up consideration of the Comments received from foreign countries as well as from the various States on the draft revised Model (State) Bill. Many of the suggestions made by other countries were found useful and it was decided to incorporate them in the revised State Bill. The Members appreciated the observations made by the foreign countries and desire that the help they had rendered should be suitably conveyed to them with a letter of appreciation.

10. As a result of the consideration of the comments received, the following changes were made in the draft revised Model Bill.

11. Taking into account the comment from Australia that all weights and measures desired cannot be stamped, some of them might have to be certified, the Committee to add a new section 12-A, as follows:—

12-A. Where the State Government is of opinion that it is not desirable to put a stamp on any secondary or working standard by reason of its size or nature, it may direct that instead of stamping such standard, a certificate may be issued to the effect that such standard conforms to the specifications laid down by or under the Central Act and every standard so certified shall be deemed to have been duly stamped and verified on the date on which such certificate was issued.

12. A similar exemption in respect of ordinary weights and measures would also be necessary. Section 19 was redrafted as follows:—

19. Where the State Government is of opinion that it is not either desirable or practicable to put a stamp on any weight or measure after verification by reason of the nature or the smallness of size of such weight or measure, the State Government may by notification in the Official Gazette direct that instead of putting a stamp on such weight or measure, a certificate may be issued to the effect that such weight or measure was duly verified under this Act and that it was found, after such verification, that such weight or measure conforms to the standards laid down by or under the Central Act, and thereupon the weights or measures in relation to which such certificate is issued shall be deemed to have been duly verified and stamped under this Act, on the date on which certificate is issued.

13. It was agreed that the Chairman would consider whether the ideas conveyed in clauses 12-A and 19 could be covered by inserting an explanation under the definition of 'stamping'.

14. It was agreed that a provision may be made in the Act under the rule making powers to allow temporary use of repaired equipment pending verification as indicated in Australian comments.

15. After considering the comment from Ceylong on Section 13 regarding provision to withdraw or cancel licences in the event of the holder being a persistent offender, it was agreed that a clause might be inserted in the revised Model Bill to cancel the licence of such an offender.

16. In Section 50(1) and 51(1) the words 'any other officer' may be linked up to convey the proper meaning.

17. It was agreed that the words 'or any class of users of weights and measures' might be added at the end of clause 1(3).

18. An optional clause on registration of traders and establishments should be inserted in the State Model Bill.

19. In the definition of the Controller, it may be examined whether the words "except for the purpose of section 3" could be inserted to indicate that only the Controller would issue a general or special order as may be necessary.

20. It was agreed that it may be desirable to omit section 16 from the State Act and insert it suitably in the Central Act.

21. In Section 31 (Sale of commodities by heaps), the limit for sale of commodities by heaps was raised to Rs. 0.50.

22. Section 37 was incomplete and should be suitably amended.

23. Proviso to Section 61 may read as follows:—

"Provided that such establishment is not a canteen in an area to which civilian access is prohibited for reasons of security of India".

24. It was agreed that Chapters II, III and VI should be suitably edited and circulated with the draft Revised Model Bill to all concerned for comments. The Chairman was authorised to amend the draft Model Bill in the light of the discussions and draft of the Central Bill which was under preparation.

25. The Committee recommended that the Fifth meeting should be held in either Aurangabad or Kolhapur, as may be convenient to the Government of Maharashtra, in the first week of November, 1969.

26. The meeting concluded with a vote of thanks to the Chair and expression of appreciation to the Andhra Pradesh Govt. for the excellent arrangements made in spite of many difficulties caused by the recent cyclone which had caused wide spread damage to the State.

FIFTH MEETING—AURANGABAD (3—6 NOVEMBER, 1969)

MINUTES OF THE FIFTH MEETING OF THE WEIGHTS AND MEASURES (LAW REVISION) COMMITTEE

The fifth meeting of the Maitra Committee was held from 3rd to 6th November, 1969, at Aurangabad. The following were present:—

1. Shri S.K. Maitra,
Jt. Secretary to the Govt. of India,
Ministry of Law,
New Delhi (Chairman).
2. Shri V.B. Mainkar,
Director, Weights & Measures,
Ministry of ID, IT & CA,
New Delhi.
3. Shri Prem Prakash,
Scientist,
National Physical Laboratory,
New Delhi.
4. Shri N. P. Satpute,
Dy. Director of Industries and Deputy Controller, Weights & Measures,
Bombay.
5. Shri M.L. Madan,
Asstt. Director, Weights & Measures,
Liaison Organisation,
Bombay.
6. Shri Abdul Qayum,
Controller, Weights & Measures,
Uttar Pradesh,
Lucknow.
7. Shri E. Vedavyas,
Controller, Weights & Measures,
Andhra Pradesh,
Hyderabad.
8. Shri Syed Ahmed Khan,
Joint Controller, Weights & Measures,
Mysore State,
Bangalore.

The Chairman welcomed the delegates, particularly the new members and hoped they would provide the Committee with new ideas. The Chairman thanked the Maharashtra Government for arranging the meeting at Aurangabad. He particularly thanked Shri Satpute for making the arrangement.

The Chairman informed the Committee that various Organisations were writing to him about the weights and measures laws. Some newspapers have also published articles about the deliberations of the Committee. This showed that keen interest was being taken about the the deliberations of the Committee.

The Chairman desired to take up the Model State Bill for discussion because enforcement was important as it had a direct impact on the people. The Chapters of the Report could be considered after the Model State Bill was finalised. The Central Bill would be taken up after the finalisation of the Model State Bill. The Committee then took up the clause-by-clause consideration of the Model State Bill.

Long Title.—Agreed.

Clause 1(3).—The Chairman said that this provision had been included to make the law as flexible as possible. The provisions of the law could be extended to different spheres as and when the time was ripe for such extension.

Shri Mainkar informed the Committee that the extension of the Act to the educational field would be effective when teachers were properly trained. He informed the Committee that in I.I.T. Madras, a course for training teachers in SI units was being started and he hoped that other State Government would take a similar step. The Chairman informed the Committee that since the SI units had been internationally approved, the law would also recognise the SI units. This would be done in the Central Act.

Clause 2.—Chairman informed the Committee that this clause would apply to transactions within the State only. Inter-State trade or commerce in weights and measures would be covered only in the Central Act. It was pointed out that informal agreements between States with regard to inter-State trade in weights and measures were not legally valid. Clause 2 would be supplemental to the provisions of the Central Act so as to cover the entire trade and industry. The State Act, being dependent on the Central Act, would not come into force until the Central Act has come into force.

Clause 3.—Definitions.—(a) “authorised stamp”.—The definition was accepted.

(b) “calibration”.—The Chairman informed the Committee that he had made an extensive study of the practices covered by the word ‘calibration’. He had found that the word ‘calibration’ was being loosely used to cover a large variety of scientific operations. The word had a wide variety of meanings.

Replying to the long discussion, the Chairman said that calibration and verification were highly technical operations. Experience has shown that in spite of the fact that the present law is confined to commercial weights and measures, training is necessary for the staff for the calibration of the weights and measures. Training would become all the more necessary when highly sophisticated instruments are to be calibrated. He stressed that in future only properly qualified persons should be recruited. To facilitate this step, he felt that Inspectors should be given higher scales of pay and there should be uniformity in their scales of pay.

The Committee decided that a strong recommendation should be made in the last Chapter of the Report for setting up the weights and measures work on an independent footing and for providing uniform higher scales of pay for the Inspectors.

It was agreed that the definition may be revised, if necessary in consultation with Shri Prem Prakash.

(c) “Central Act”.—The definition was approved.

(d) The definition of “commodity in packaged form” was approved.

(e) “Controller”.—Shri Khan informed the Committee that the Mysore Law Department had objected to the equating of Additional, Joint, Deputy and Assistant Controllers as Controllers for the purpose of the Act. The Chairman informed him that it was a question of policy and not of law. Shri Vedavyas wanted that the State Government should be authorised to vest officers subordinate to the Controllers with such powers of the Controllers as may be considered necessary.

After discussion the following definition was adopted;

(f) “Controller” means the Controller appointed by the State Government under section 4.

In view of the alteration of the definition of “Controller” consequential changes have been made in clause 4.

(g) The definition of “counterfeit stamp” was approved with slight change in Explanation II.

(h) "dealer". The definition was approved. Shri Prem Prakash wanted to know that differentiation would be made between a dealer in weights and measures and other goods. The Chairman told him that since the Act was applicable to dealers in weights and measures there was no question of its application to other cases.

The definitions of "export", "false weight or measure", "heap", "import", "Inspector", "label", "manufacture", "mint", "notification", "person", "premises", "prescribed", "protection", and "stamp", were approved.

About the definition of "standard weight or measure" Shri Prem Prakash raised a point that the word "standard" should not be used and it should be "commercial". The Chairman pointed out that the expression "standard weight or measure" was being used everywhere and its meaning was always qualified suitably. Alternatively it was taken as a verified and stamped weight or measure. Moreover, with the extension of the law to newer fields, the word "commercial" had lost its validity and words "standard weight or measure" would be more in keeping with the new concepts incorporated in the law. It was agreed that no change was necessary.

The definitions of "verification" and "weight or measure" were approved.

CHAPTER II

Clause 4.—Since the definition of "Controller" had been changed some consequential amendments were made in clauses (1), (2), (3) and (4) as follows:—

- (1) As it is in the draft Bill.
- (2) Every Additional, Joint, Deputy or Assistant Controller appointed under sub-section (1) shall exercise such powers and discharge such functions of the Controller as the State Government may, by notification, specify in this behalf.
- (3) The Controller may, by general or special order, define the local limits within which each Additional, Joint, Deputy or Assistant Controller or each Inspector shall exercise the powers and discharge the duties conferred or imposed on him by or under this Act.
- (4) Sub-section (3) of the existing section.
- (5) The Controller and every Additional, Joint, Deputy or Assistant Controller, may also
 - (a) perform all or any of the functions of,
and
 - (b) exercise all or any of the powers conferred by this Act or any rule or order made thereunder on, an inspector.

Clauses 5, 6 and 7 were approved.

CHAPTER III

Clause 8.—While discussing clause 8 the Chairman said that there was controversy about commercial and 'non-commercial' weights and measures. Different State Governments were facing difficulties on account of this classification. The clause had been so revised as to remove anomaly and ambiguity and remove the distinction between 'commercial' and 'non-commercial' weights and measures. He said that the purpose of the law is to remove the old concepts of weights and measures and to replace them by the concept of metric weights and measures. He felt that the new generation need not study the standards of weights and measures which were being used in earlier times or in other countries.

It was agreed that in sub-clause (1) the words "for any weightment or measurement" should be omitted because they were already covered by the definition of premises.

About sub-clause (2) the Chairman said that it was a device by which the peasants' and consumers' interest would be protected.

About sub-clause (3) the Chairman said that if the decimal system was to be fully utilised old numbers like "dozen" "score" "gross" should disappear from practice once for all.

Clause 9.—The point was raised that the State Government should have the power to achieve the purpose of this section by notification as it would be easy. The Chairman pointed out that courts were likely to object to the delegation of excessive powers by notification. He said that rules could also be amended in the same manner as a notification.

The clause was approved.

Clause 10.—It was pointed out that the provision about announcement of prices by words of mouth may be difficult to enforce. The Chairman said that it was enabling power and could be used when the need arose. It was agreed that the provision should be retained.

CHAPTER IV

Clause 11 was approved.

Clause 12, sub-section (1), proviso.— It was considered whether the expression "such other manufacturers" in the proviso would create difficulties by restricting the application of the proviso.

The expression "such other manufacturers" was changed to "such person" to make the provision more flexible.

Clause 12 was approved with this amendment.

Clause 13 was approved with a similar amendment.

Clause 14 was approved.

CHAPTER IV-A

The Chairman said that this chapter was optional. This had been included at the request of the Government of Uttar Pradesh.

Clause 14 A was approved with a small amendment namely for words "has registered himself" substitute "is registered".

Clause 14 B.— Shri Abdul Qayum felt that the levying of fee for registration may become an additional burden on the user of weights and measures. The Committee, however, felt that the Government had to spend money on employing clerks, providing stationery and setting up facilities for rendering this service. A fee was thus justified. Such of the States as did not wish to charge a fee could do so. The provision for charging fees was therefore, retained.

Clause 14 C.—The Committee agreed that the punishment should be reduced to a fine of five hundred rupees and imprisonment upto six months.

CHAPTER V

Clause 15.—Shri Satpute wanted the provision about the licensing of repairers should be removed as it was impracticable. The point was discussed at considerable length.

Summarising the discussion the Chairman pointed out that the repairer was an integral part of the system of enforcement of weights and measures. If he was not licensed, the whole system would crumble and open a wide field for malpractices and exploitation of users of weights and measures by mushroom and incompetent repairers. In industrial production delicate weighing and measuring instruments costing thousands of rupees were being used. Unlicensed repairers, without any responsibility would do heavy damage to such measures. Even large weighbridges and other equipment could be damaged. A licensed repairer could be controlled by many means, but an unlicensed repairer would be a grave menace to the entire apparatus of enforcement.

The Committee agreed that repairers should be licenced. To eradicate the present mal-practice of overcharging for repairs of ordinary weights and measures, it would be desirable to authorise Inspectors to adjust them, a provision for which had been made in the new bill and also existed in the old Act.

The Chairman said that rules might be made to indicate broadly the repairing charges for main items. Doing so for all items may infringe the fundamental rights of the repairers to carry on trade and on this ground the Act itself or provisions may be struck down.

Clause 15(4) .—It was agreed that a provision for extension of time for making application should be provided as was done under the gun licensing or motor vehicles Act.

Clause 15(5) .—It was agreed that the proviso should be omitted.

Clause 16 .—It was pointed out that the time limit for ten days within which opportunity should be given to the holder of the licence to explain was too insufficient.

The Chairman replied that it was an important proviso and if it was omitted, the operation of the Act would become difficult because the licensee was capable of doing mischief between the period of inquiry and the cancellation of the license. He, however, informed members that the mere issue of notice would be sufficient and that the clause would be revised accordingly.

A small amendment was also made in sub-section (4).

Clause 17 .—It was agreed that the word 'State Government' would be substituted by "Controller" in the proviso.

Clause 18 .—The clause was approved with a small amendment.

Clause 19 .—The clause was approved.

Clause 20 .—It was pointed out that some provision should be made for the disposal of the stock after the licence of a dealer had been cancelled. A suitable provision was incorporated.

CHAPTER VI

Shri Abdul Qayum said that his Law Department wanted that the Act should provide for issue of verification certificate. The Chairman explained that as a number of conditions were to be attached to the certificate of verification, it would be better if this is done by rules, as is being done at present. He still assured the members that he would verify the position and see what was feasible.

Some members felt that it should be left to the Inspector to specify the time and place where verification work would be undertaken in his rounds.

The Chairman said that by 'specified time' a reasonable hour was meant. The time has to be specified otherwise a trader might come at midnight and ask the Inspector to verify his weights. For place of verification it was possible to make a general notification. As regards the proposal to empower Inspector to specify the time and place, he was firmly of the view that the power should be exclusively given to the Controller.

The clause was approved with small amendments.

Clause 21 .—It was pointed out that the power to issue a certificate instead of putting a stamp, where not possible on account of the size of the weight or measure, should be given to the Controller instead of State Government.

The Chairman agreed to this. He told the Committee that the Controller should do this by general or special order.

The point was raised whether the verification could be done by a Manual Assistant.

The Chairman said that verification could be done only by the Inspector.

The clause was approved with small amendments.

Clause 22 was approved.

Shri Abdul Qayum said that his Law Department wanted that the provision for obliteration of stamp should be provided for in the statute itself and not in the rules, as had been done under rule 17 of the U.P. Rules.

It was agreed that this could be provided in the Bill under verification provision.

Clause 23 was approved.

Clause 24 was approved.

Clause 25 was approved with a small amendment to cover numbers also.

Clause 26—It was agreed that the existing section be made sub-section (1) thereof and after the sub-section, a new sub-section be added to make it clear that every authorisation made by a Controller for search would be a warrant under Section 102 of the Criminal procedure Code.

Clause 27—Sub-section (3) and (4) were deleted and the clause was approved.

Clause 28 was approved.

Clause 29—Some members wanted that the power to check undue proliferation should be given to the Controller in place of the State Government.

The Committee felt that this was not possible because it was an important matter where direction should be in the hands of the State Government.

CHAPTER IX

Clause 30 was approved.

Clause 31 Some members doubted whether it would be possible to enforce the provision.

After discussion, it was agreed that in order to save the ignorant consumer, a beginning would have to be made. Moreover, it was necessary to indicate approximate weight or measure. Approximation could not be to the extent where the difference would be nearly half of declared weight, measure or number. It was an enabling provision. It was for the enforcement authority to see how it was to be properly enforced.

The clause was approved.

CHAPTER X

Clause 32—Shri Abdul Qayum desired that the section number for which penalty had been provided in the Bill should be indicated in the marginal heading so that it would be easy for the Inspectors to correlate offences and punishment. It was agreed that this should be done.

Clause 32 was approved.

Clause 33, 34, 35 were approved

Clause 36 sub-section (1) was approved.

It was agreed that in Sub-section (2), a higher penalty should be provided for a second or subsequent offence to make the punishment more deterrent.

Clause 37—It was agreed that the penalty of three months would be too insufficient and that it should be atleast one year.

Clause 38 was approved.

Clause 39—It was agreed that there was ambiguity between (i) and (ii) and that the 'stamp' should be differentiated from seal. Consequential amendments were made in all the items.

Clause 40 was approved.

Clause 41—Members desired that there should be provision for defacement of weights and measures before their disposal. At present such disposal was posing difficulties. After discussion it was agreed that electric chisels were the best instrument for defacing weights. Members were requested to try out the device.

The proviso was amended to make provision for defacement before disposal by adding at the end—

“Which has been defaced in the prescribed manner”.

Clause 42—Members desired that neglect to produce weights and measures for inspection or verification should not invite heavy punishment because neglect might not be intentional.

It was agreed that the section should be split in such a manner that the punishment for neglect was reduced and was separated from punishment for refusal.

Clause 43 was approved.

Clause 44—It was agreed that punishment with regard to offences relating to heaps should be reduced as most offenders were likely to be traders of very small means.

Clause 45, 46, 47 and 48 were approved.

Clause 49—Some members expressed the view that the provision of sub-section (2) would be a hindrance in the day-to-day working of the law and that no Inspector would be willing to enforce the provision of the law.

The Chairman explained that this section would be a safeguard against the misuse of powers by the Inspector. As the Controller was the deciding authority for launching prosecutions, there was no harm in keeping this section.

It was agreed that the Controller should be excluded from the purview of the Section and the punishment made more deterrent.

Clause 50—It was agreed that as the Controller would be the deciding authority he should be excluded from the purview of the Section.

Clause 51—Some members explained that in view of the limited powers of the magistrate trying cases summarily, only summary trial should be provided for in response or cases where the maximum punishment does not exceed a term of imprisonment for six months. For other cases regular trial should be resorted to.

The necessary amendments were made.

Clause 52—Some members felt that the provision for composition of offences should be omitted. There was considerable discussion on this point.

The Chairman, summing up the discussion, said that it was a question of policy whether cases should be compounded or not, that it was better to have a provision for composition of offences than not to have any. Compounding had its advantages. It cuts the time taken for resolving cases. It reduces considerably the court work of the Inspector. It was possible to impose heavier compounding fees than the fine which might be imposed in courts. To avoid corruption, the power might be given only to Senior Officers or to the Controller himself. Compounding also reduces the work load on magistrates.

On considering these advantages, the Committee agreed to retain the provision for compounding of offences.

It was agreed that Section 60(3) should also be brought within the purview of this Section.

Clause 53 and 54 were approved.

CHAPTER XI

Clauses 55 and 56 and 57 were approved.

Clause 58—It was agreed that fees should be charged for the issue of duplicate copies of other documents, which were not of a confidential nature.

Clause 59 was approved.

Clause 60 was approved with consequential amendments arising out of the inclusion of new provision in the Bill.

Clause 61—It was agreed that the power to remove difficulties should be for three years instead of one as it was very difficult to visualise at the present moment the difficulties which might crop up later on.

Clause 62—It was agreed that this Clause should be drafted after consulting the Defence Authorities.

Clause 63 was approved.

The Chairman gave a general redraft of amended section. These amendments would be examined in detail before they were incorporated. It was agreed that a draft of the State Model Bill would be sent to the States and they should check up before the next meeting whether all the points had been covered.

The Chairman then took up for discussion Chapter II, III and VI of the draft report. He requested the members to go through the Chapters carefully and send their comments before the next meeting. He also informed members that he had prepared to the draft of Chapter I in such a way that a common man reading the report should understand the importance of the law relating to weights and measures. He said that he was very happy to find that there was growing awareness of the deliberations of this Committee.

It was resolved that the next meeting of the Maitra Committee should be held in Kanyakumari in late January or early February. The Directorate of Weights and Measures should take up the matter with the Madras Government. In case it was not possible to hold it at Kanyakumari, it may be held at a suitable place in Andhra Pradesh.

The Committee noted that the representative of West Bengal had not attended the last 3 meetings and had not given intimation of and reasons for his absence. The Directorate of Weights and Measures was authorised to take up the matter with the Government of West Bengal.

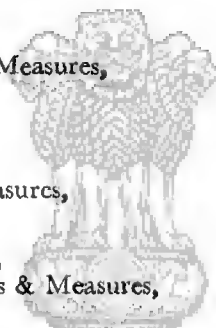
The meeting concluded on 6 November, 1969 with a vote of thanks to the Chair.

SIXTH MEETING—KANYAKUMARI (6—9 APRIL, 1970)

MINUTES OF THE SIXTH MEETING OF THE WEIGHTS AND MEASURES (LAW REVISION) COMMITTEE

The sixth meeting of the Maitra Committee was held from 6-4-1970 to 9-4-1970 at Kanyakumari. The following were present:—

1. Shri S. K. Maitra,
Joint Secretary to the Government of India,
Ministry of Law,
New Delhi (Chairman).
2. Shri V. B. Mainkar,
Director, Weights and Measures,
Ministry of I.D. I.T. & C.A.,
New Delhi.
3. Sri Prem Prakash,
Scientist,
National Physical Laboratory,
New Delhi.
4. Shri C. V. Rao,
Works Manager,
India Government Mint,
Bombay.
5. Shri V. K. K. Nair,
Asstt. Director Weights & Measures,
Min. of I.D. I.T. & C.A.,
Madras.
6. Shri E. Vedavyas,
Controller, Weights & Measures,
Andhra Pradesh.
7. Shri M. K. Ramakrishnan,
Deputy Controller, Weights & Measures,
Kerala.
8. Shri N. P. Satpute,
Deputy Director of Industries,
Maharashtra.
9. Shri Syed Ahmed Khan,
Joint Controller, Weights & Measures,
Mysore.
10. Shri K. Hallan,
Deputy Controller, Weights & Measures,
Tamil Nadu.
11. Shri K. N. Dhusiya,
Controller, Weights & Measures,
Uttar Pradesh.
12. Shri Mahendar Pal Singh,
Senior Inspector, Weights & Measures,
Uttar Pradesh.
13. Shri N. C. Roy,
Controller, Weights & Measures,
West Bengal.
14. Shri A. K. Basu,
Asstt. Controller, Weights & Measures,
West Bengal.



सत्यमेव जयते

The Chairman welcomed the members and thanked them for attending the meeting. He said that he was sorry that Shri Jeelani, Controller, Weights and Measures, Tamilnadu Government, who took great pains for organising the meeting, could not be present on account of his preoccupations with the Labour Ministers' Conference being held in Madras. He thanked Shri Jeelani and the Government of Tamilnadu for making excellent arrangements for the stay of the members. He also thanked Shri Ramakrishnan, Kerala for making the necessary arrangements at Trivandrum for the members in transit.

The Chairman said that it was in the fitness of things that the Committee which was set up at Srinagar, in Kashmir, should finalise the State Bill at Kanyakumari. He was happy that sufficient notice was being taken of the deliberations of the Committee.

The Chairman explained that the State Bill had been taken first, because enforcement was important. The Central Bill would be drafted later. He said that once the Model State Bill was ready, the Central Bill would not take much time. The Chairman said that considerable public education was necessary so far as the new State Bill was concerned. The new State Bill covered very wide ground. Every Controller and State Government should try to understand the compass of the Bill. He explained that since the law would cover in future vast fields of human endeavour, it would be advisable to increase the efficiency and precision of measurements. For this purpose, experienced and well-trained Inspectors were necessary. He desired that the Committee should lay strong emphasis on this point in its Report. He was sorry to note that the scales of pay of Inspectors in most of the States were deplorable low. He stressed that the Inspectors should be given good scales of pay if good work was to be got out of them. It was essential that there should be a separate Department which should deal exclusively with Weights and Measures.

The Chairman explained the difference in the old Acts and the new laws. He said the new laws would be based on SI Units. Another difference was with regard to packaged commodities and inter-State trade in weights and measures and in packaged commodities. Inter-State trade would be covered by the Central Act.

Sarvashri Vedavyas and others explained the difficulties they were facing about finances. They said that inspite of the fact that large revenues were coming from Weights and Measures Department, the financial assistance given by the State Governments to that Department was not enough to meet even the current developmental expenses, leave alone future expansion. They felt that the plan scheme on weights and measures should be subsidized by the Central Government as in the past.

Shri Ramakrishnan explained that in Kerala no State Scheme had been sanctioned for weights and measures.

Shri Mainkar explained how the Centrally sponsored scheme had been converted into a State Scheme by the Planning Commission on the instance of the States. He said that he would take up the matter with the Planning Commission but he wished that the suggestion to go back to a Centrally sponsored scheme should preferably come from the State Governments.

Shri Khan said that unless more items were brought within the purview of the Act, more finances would not be forthcoming.

The Chairman observed that in some quarters it was said that since metric system had come to stay, there was no need for the Weights and Measures Department. He explained how the whole argument proceeded from a misconception about the role of the Weights and Measures Department. There was a continuous need to watch consumer interest. He said that even one per cent. short weight in retail business would benefit the shopkeepers to the extent of Rs. 140 crores per year.

In conclusion, he congratulated the members for bringing about a silent revolution of an enormous magnitude and hoped that they would proceed with equal vigour and wisdom in future. He said that what had been done by them could not be achieved over the past 2,000 years. He said that there were many fields still untouched by this revolution but they had to be covered with due prudence. He stressed upon the members the need to explain the pressing necessity of having a separate Department of Weights and Measures to their respective Governments.

The Model State Bill was then taken up for consideration clause by clause.

Clause 4.—It was suggested that the Controller should be the appointing authority for Inspectors. The Chairman explained that it would be better if the power was given to the State Government, otherwise it was likely to create friction.

The clause was adopted with slight amendment:—

Sub-clause (1).—For “Assistant Controllers, Inspectors of” substitute “Assistant Controllers and as many Inspectors of”.

Clause 5.—Shri Ramakrishnan enquired whether the power to make adjustment in weights and measures would not be automatic. The Chairman explained that it was made explicit to give a legal cover to the powers of adjustment. This would avoid difficulties.

Clauses 6, 7, 8 and 9.—The clauses were adopted without any comments.

Clause 10.—The Chairman said that the clause was expected to ensure consumer protection.

Sub-clause (d) was clarified as follows:—

“(d) expression of any quantity or dimension may, in addition to the units specified by or under the Central Act also be made in accordance with any other system of weights or measures, if the person to whom the export is made so requires.”

Clause 11.—The clause was adopted without any comments.

Clause 12.—The clause was adopted with a slight change in the language of proviso to sub-clause (1)—

“Provided that where the *Mint intimates to the State Government in writing, that it is unable to.....*”

Clause 13.—The clause was adopted with slight change in the language of proviso to sub-clause (i) in the lines of proviso to sub-clause (1) of clause 12—

“Provided that where the *Mint intimates to the State Government in writing, that it is unable*”

CHAPTER IV-A

The Chairman informed members that the Chapter was optional. Those States which wished to adopt it, could include it in their Bill. There was no compulsion.

Clauses 14-A, 14-B and 14-C.—The clauses were adopted without comments.

CHAPTER V

Clause 15.—Sub-clause(i).—Shri Roy was of the view that the proviso to sub-clause (1) should be omitted. Explaining the legal implication of omission, the Chairman said that omission would lead to unnecessary litigation. Moreover, the power to allow or not to allow was with Controller.

Sub-clause (3).—Shri Ramakrishnan wanted to know why the time for renewal application should not be one month after as in the case of radio licence, gun licence, etc. The Chairman said that it would not be practical in this case because the person concerned could do great harm in one month. Moreover, the discretion was with the Controller to give a month extra, if he so desired.

Sub-clause (8).—Shri Khan was informed that furnishing of security was optional. The clause was adopted.

Clause 16.—The clause was adopted with slight change in sub-clause (5) to make the seizure and disposal of seized goods easy.

In line 6 of sub-clause (5) after " Controller may " insert " or any other officer authorised by him in writing, in this behalf, seize and....."

Clauses 17, 18 and 19.—The clauses were adopted without comments.

Clause 20.—Some members were of the view that specifying the place and time by the Controller would be impractical and would lead to practical difficulties. The power should be given to Inspectors. After discussion, it was agreed that this power could not be given legally to Inspectors. If the Controller liked he could delegate the powers to the Inspector. A change would weaken the administrative hold of the Controller over the Inspectors and the Organisation. The clause was adopted with slight change in sub-clause (1). Sub-clause (1), lines 8-9 for "during such hours" substitute "at such times".

Clauses 21 and 22.—The clauses were adopted without comments.

CHAPTER VII

Clauses 23, 24, 25, 26, 27, 28 and 29 were adopted without comments.

Shri Dhusiya raised the point that provision regarding obliteration of stamps, etc., had not been included. It was agreed that this would be done.

CHAPTER VIII

COMMODITIES IN PACKAGED FORM

The Chairman said that the idea of bringing the commodities in packaged form within the ambit of the Weights and Measures law was relatively new. This was not, however, a novel idea. There was a law in the U.S.A. which regulated trade in packaged commodities. The consumer needed protection in this new field. The common man would never know what was the weight of the commodity in a package if the quantity was not mentioned on the packages. Under the law, the manufacturer or packer would have to mention the net contents on the label itself.

The draft of the State Bill had been circulated to foreign countries for comments. They had expressed great appreciation of the law and more particularly of the provisions relating to packaged commodities.

Some members said that contents of packages for common items should be standardized throughout the country. Care should particularly be taken to standardize the contents of packages containing commodities meant for inter-State trade. The Chairman pointed out that this power had been given to the Government in the new law. He said that tolerances would have to be provided before the new law came into force and asked Shri Mainkar and other members to keep ready data on the articles to be covered for tolerance limits.

Sub-clause (10).—The point was raised as to the level at which the correction would be made and who should see that the necessary correction had been made. It was agreed that corrections would be made with the approval of the Controller and batch number should also be mentioned as was done in the case of medicines, etc.

CHAPTER IX

Clause 31.—Some members expressed the apprehension that there were many difficulties in giving effect to this provision. It was agreed that difficulties always appeared great in the beginning. It was better to keep a provision rather than not having it.

A case was cited about how sugarcane growers were being cheated by the mill-owners. Sugarcane was weighed correctly on the machine but less weight was recorded in the invoice. In some cases it was not weighed the same day but allowed to dry up and then weighed, thus putting the farmer to a loss. The Chairman agreed that this point should be covered suitably by amending clauses 8 and 36.

CHAPTER X

OFFENCES AND THEIR TRIALS

The Chairman requested the members to go through the Chapter very carefully and ensure that nothing was omitted. The Chapter had been revised according to the earlier recommendations of the Committee. Now penalties were given according to the number of the clauses to which the offence related.

Clause 33.—Some members wanted that the mere possession of a weight or measure should not be made an offence. The weight or measure might have been kept as an antique. The section was adopted with suitable amendments. The Chairman said that necessary re-drafting would be made to prohibit double-marking on tapes.

Clause 34.—The Chairman pointed out that sub-clauses (2) and (3) were new. They were discussed at Aurangabad. But they had been made quite comprehensive to bring even forgery within the purview of the law.

The clause was adopted without any amendment.

Clause 35.—The clause was adopted without any amendment.

Clause 36.—See earlier under clause 31.

Clause 37.—The clause was adopted without any comments.

Clause 38.—Some members expressed the apprehension that retention of sub-clause (c) would lead to practical difficulties. It was agreed to re-examine sub-clause (c).

Clause 39.—Proviso to clause 15(1) would be added to this clause.

Clauses 40, 41, 42, 43, 44, 45, 46 and 47.—The clauses were adopted without any comments.

Clause 48.—It was agreed that as the "explanation" would create difficulties, it should be re-examined.

Clauses 49, 50, 51, 52 and 54.—The clauses were adopted without any comments.

Clause 55.—*Sub-clause (1).*—The punishments were enhanced to :—

Imprisonment: for "three months", substitute "one year";

Fine: for "one thousand", substitute "two thousand".

Sub-clause (2).—The punishments were enhanced to :

Fine: for "one thousand", substitute "two thousand".

Imprisonment : for "three months", substitute "one year";.

Clauses 56, 57, 58, 59, 60 and 61.—The clauses were adopted without any comments.

The Chairman then requested members to examine which offences they wanted to be compounded. He assured them that guiding principles would be provided for charging compounding fees. The point whether seized property should be disposed of and whether costly machines should be returned to the owner would be examined.

CHAPTER XI

Clauses 63, 64 and 65.—The clauses were adopted without any comments.

Clause 66.—The clause was adopted after a minor amendment in the wording of sub-clause (a) :—

"(a) grant or renewal of licences for the making, manufacturing, repairing or selling of any weight or measure".

Clause 67.—The clause was adopted without any comments.

Clause 68.—Shri Dhusiya said that the Uttar Pradesh Law Department desired that the power to regulate the display of licences at a conspicuous place in the premises should be in the main Bill itself. It was agreed that the point would be examined by the Chairman and, if necessary, the provision would be made in the Bill itself.

Clause 69.—The Chairman said that the clause would be re-examined in view of the ruling of the Supreme Court in the Gold Control Act.

Clause 3.—The definitions clause, namely clause 3, was taken up last—

- (a) No comments.
- (b) The definition would be examined, if necessary, in consultation with Shri Prem Prakash.
- (c)—(e) There were no comments.
- (f) No comments. There was a typographical mistake in explanation II. The error was corrected.
- (g) No comments.
- (h) No comments. It would be compared with the Customs Act.
- (i)—(k) There were no comments.
- (l) The words "whether as Senior, etc." were omitted, to make the definition more elaborate.
- (m)—(t) There were no comments.
- (u) The words "set of" were omitted. As singular inches plural, the words were put in the singular.
- (v)—(zc) There were no comments.

The discussion on the Bill concluded at this stage.

Chapter VI of the draft Report relating the Model Weights and Measures Bill (States) was then taken up. The Chairman was informed by the members that they had no comments to offer. They requested the Chairman to make changes, if necessary, in the light of changes made in the Draft Model State Bill.

In conclusion, the Chairman said that educating the public was very necessary. He wanted the members to take on loan the documentary film which was shown at Srinagar and others and exhibit them in their respective States. The Committee strongly recommended that the Centre should give a lead on this point and produce educative films on weights and measures and show them all over the country.

The Committee agreed that the representatives of the Governments of Tamil Nadu and Kerala and of the Government Mint at Bombay should be co-opted on the Committee.

Shri Vedavyas suggested that Secretaries, Ministers, etc., dealing with weights and measures should also be invited to the meetings of the Committee.

The Chairman agreed that they should be invited regionwise. It was further agreed that such of the States as were not members of the Committee should be associated with subsequent meetings. For example, for the next meeting, representatives of Assam, Bihar and Rajasthan could be invited.

The Committee expressed their appreciation of the arrangements made for the meeting and recorded their thanks to Shri Jeelani and his staff and the Government of Tamil Nadu.

The Chairman informed the members that at the next meeting the Central Bill would be taken up and he hoped that in two or three meetings the Central Bill would be fully discussed and finalised. After the Central Bill the Committee would take up the rules.

It was agreed that the Government of Orissa should be approached to hold the next meeting at Puri. Failing that the meeting might be held near Hyderabad preferably at Srisailem.

The meeting concluded on 9 April, 1970 with a vote of thanks to the Chair.

SEVENTH MEETING—PURI (21-25 SEPTEMBER, 1970)

MINUTES OF THE SEVENTH MEETING OF THE WEIGHTS AND MEASURES (LAW REVISION) COMMITTEE

The Seventh Meeting of the Maitra Committee was held from the 21st to 25th September, 1970 at Puri, Orissa. The following were present:—

1. Shri S.K. Maitra,
Joint Secretary to the Government of India,
Ministry of Law,
New Delhi (Chairman).
2. Shri V.B. Mainkar,
Director, Weights and Measures,
Ministry of Industrial Development and Internal Trade,
New Delhi.
3. Shri Prem Prakash,
Scientist,
National Physical Laboratory of India,
New Delhi.
4. Shri Ishwar Datt,
Assistant Director, Weights and Measures,
Ministry of Industrial Development and Internal Trade,
New Delhi.
5. Shri M.L. Madan,
Assistant Director, Weights and Measures,
Ministry of Industrial Development and Internal Trade,
Bombay.
6. Shri J. Ray,
Assistant Director, Weights and Measures,
Ministry of Industrial Development and Internal Trade,
Calcutta.
7. Shri V.K.K. Nair,
Assistant Director, Weights and Measures,
Ministry of Industrial Development and Internal Trade,
Madras.
8. Shri M.B. Shabbir,
Controller, Weights and Measures,
Andhra Pradesh.
9. Shri G. Sarmah,
Controller, Weights and Measures,
Assam.
10. Shri C.P. Shastri,
Controller, Weights and Measures,
Bihar.
11. Shri M.K. Ramakrishnan,
Controller, Weights and Measures,
Kerala.
12. Shri N.P. Satpute,
Deputy Director of Industries,
Maharashtra.
13. Shri Syed Ahmad Khan,
Joint Controller, Weights and Measures,
Mysore.

14. Shri A.R. Mohammad Iqbal Ahmad,
Special Officer, Weights and Measures,
Mysore.
15. Shri D.K. Das,
Assistant Controller, Weights and Measures,
Nagaland.
16. Shri D. Satpathy,
Deputy Secretary and Controller,
Weights and Measures, Supply Department,
Orissa.
17. Shri N. Misra,
Deputy Controller, Weights and Measures,
Orissa.
18. Shri S. Jeelani Hussain,
Controller, Weights and Measures,
Tamil Nadu.
19. Shri P. Dutt,
Controller, Weights and Measures,
Uttar Pradesh.
20. Shri N.C. Roy,
Controller, Weights and Measures,
West Bengal.
21. Shri S.C. Gangopadhyay,
Assistant Controller, Weights and Measures,
West Bengal.

The Meeting was inaugurated at 6.00 P.M. on 21st September, 1970 by Shri Nityananda Mahapatra, Minister for Supply and Cultural Affairs, Orissa at Bhubaneswar Kalamandap and was presided over by Shri P.K. Singh Deo, Chief Minister, Orissa.

In his welcome address Shri Maitra thanked the Chief Minister and the Minister of Supply for presiding over and inaugurating the Meeting. He said that the occasion was important because it was the first time that a State dignitary had graced the meeting with his presence. He thanked Shri Nityananda Mahapatra for his keen interest and said that he had given a new face to the Weights and Measures Department of the State. He was a great source of inspiration to all of us. If State Ministers took similar interest, the social reform ushered in by the adoption of metric system would benefit the people.

Shri Maitra traced the History of Weights and Measures. He pointed out that the present was the first time after the reign of Chandra Gupta Maurya in the fourth century B.C. that uniformity in standards of Weights and Measures was being established. During the last 2,300 years many attempts to do so had failed. The British Government also tried to do something in this direction but they also developed cold feet. The result was that hundreds of types of standards came into existence. It was only in 1956, when the Standards of Weights and Measures Act was passed that the work of properly enforcing uniformity in standards was initiated.

He said that the field of weights and measures was not restricted to ordinary weighing and measuring instruments. In fact, human life itself would be in jeopardy if incorrect weights or measures were used. He gave several examples of how human life would be endangered if inaccurate weights or measures were used. If accurate weights and measures were not used even State revenue would suffer because such revenues were usually collected on the basis of weights and measures. Furthermore, if there was one per cent. shortage in weights or measures in retail trade, the annual unlawful profit to the traders would be 140 crore rupees. Taken together with wholesale trade and other activities in a Five Year Plan, such cheating, if allowed to flourish, would deprive people of about Rs. 14,000 crores.

Shri Maitra pointed out that The State Model Bill was more or less ready and only minor changes were necessary in it. The State Bill was taken first so as to tighten enforcement provisions. At the Puri meeting the Central Bill would be discussed.

He stressed the necessity of establishing separate Departments for Weights and Measures.

Shri Nityananda Mahapatra, Minister of Supply and Cultural Affairs, Orissa in his inaugural address said that the aims and objects of the weights and measures laws were without doubt laudable and, apart from ensuring uniformity in the standards of weights and measures used in the country as a whole, the law should, when implemented effectively, be able to give substantial relief to the people in general in the shape of a much needed social relief. He said that everybody was interested that he should not be cheated but few realized that others should also not be cheated in their transactions. The truth was that cheating was rampant and particularly in undeveloped areas of the State. Some sahuks were thriving in such areas by cheating the unsophisticated Adivasis by devising weights and measures designed for the purpose of such cheating. It is the duty of the Government to take suitable administrative and social steps to stop the practice of cheating others or from being cheated by others in matters of sales and purchases made through weights and measures. Our Constitution divided the field of weights and measures into two fields—Centre to lay down standards and State Assemblies to pass necessary legislations on other matters relating to weights and measures. In pursuance of this Constitutional provision, the Centre passed the Standards of Weights and Measures Act in 1956. The State Act based on a Model Bill drafted by the Centre, was passed in 1958 and rules were made in 1960. Problems relating to weights and measures now being tackled at the international level by the International Organisation of Legal Metrology. India being a member of the OIML was anxious to take suitable steps to follow up the lead given by it from time to time. The Government of India set up the Maitra Committee, which is meeting here for the seventh time to revise the weights and measures laws in the light of international recommendations.

He expressed the view that if the Centre was to be associated with enforcement it would be desirable that the proposal should first be thoroughly discussed in the meeting of accredited representatives of different States and the Centre with a view to arriving at unanimity of opinion as far as possible. Otherwise all the States might not be willing to co-operate. If Central legislation for enforcement becomes essential, it would be desirable to have a Central law for the purpose and to give States powers to exercise control over the enforcement part of it. Alternatively the Centre should give the law-making power to States to be exercised in consultation with the Centre.

He said that the revenue earned by his State from verification fees was not sufficient to meet the expenditure of the Organisation set up to enforce standards specified by the Central Act. The Centre should give subsidies to States to meet the deficit. In fact, the entire Scheme should be the responsibility of the Centre because it was the Centre and not the States which was answerable to the International Organisation. He urged upon Shri Mainkar to persuade the Centre to give sufficient funds for publicity, specially in Adivasi areas and for building laboratories, offices and residential quarters for the staff. He reiterated that in spite of changes in the pattern of Central assistance, this should be entirely a Central Scheme.

He said that Orissa had taken the lead in appointing science and engineering graduates^s as Senior Inspectors. They had undergone training at Patna and they always topped the examinations there. He strongly felt that the duration of the course was not adequate and that Inspectors should be given thorough training to handle sensitive instruments. Otherwise there was a possibility of tremendous loss being incurred by improper use of costly equipment.

He regretted that implementation of the weights and measures law in the State was unimpressive. He pointed out that many factors were responsible for this shortfall e.g. lack of publicity explaining the aims, objects and scope of the law. The matter had not also received adequate attention from the concerned Departments of the Government. Further, the Department of Weights and Measures was being tagged with different Ministries, times without number. This had greatly hampered the progress of this Department.

He said that it was regrettable that even Government Departments were not co-operating. It was desirable to give training to the Government officials to make them acquainted with the working of the Weights and Measures Department so that they would be made conscious of their duties under the Weights and Measures laws. He said that even in enlightened society, there was inadequate appreciation of this social benefit and other potentials of this far-reaching reform. He was of the view that it was necessary to have a separate Department for Weights and Measures. He requested the Press to give due publicity to highlight the benefits to the people of this new reform.

The Chief Minister, Shri P.K. Singh Deo, welcomed the members of the Committee and assured that all possible help would be given to make the deliberations of the Committee fruitful.

He said that there was so much variety in the standards of weights and measures used in the State that they differed from village to another. Uniformity in the standards of weights and measures was the need of the hour. It was the duty of the State to ensure that cheating of the general public by unscrupulous traders was stopped. He appealed to the public in general to give co-operation to the Weights and Measures Organisation so as to reap benefits from this reform. The days when cheating was considered as a sign of cleverness were now over. There was growing awareness against cheating and it was being looked upon very unfavourably.

He expressed surprise that shortage in weights and measures could bring a gain of Rs.14,000 crores to traders. Just as all possible steps were being taken for the preservation of foodgrains, it was necessary to take suitable steps to stop fraudulent weighing and measuring. It would be an achievement if cheating could be brought down to one per cent. if not altogether eliminated. To achieve this goal enforcement would have to be strengthened and made more effective. For this it was necessary that the Centre should give sufficient help. Otherwise it would not be possible for his State with its meagre resources to keep pace with the rest of the country.

While proposing a vote of thanks, Shri Mainkar said that he was proud to note the keen interest taken by the Orissa Government, the Chief Minister and particularly the Minister for Supply and Cultural Affairs in proper working of the Weights and Measures Department. The valuable suggestions made by the honourable Minister and the Chief Minister had been noted and would be followed up. He assured them that he would process the recommendations about Central assistance with the Government of India. He felt that the States could persuade the Government of India to give special subsidies for the capital expenditure on weights and measures enforcement as was being done previously.

He pointed out that the Centre had established a Training Institute at Patna for giving necessary training in legal metrology to the officials of the State Governments and it was being equipped and modernised with German help. The suggestion about the need to have more extensive and intensive training would be implemented in consultation with German expert.

Shri Jagannath Rao, Union Minister of State in the Ministry of Law and Social Welfare, also graced the meeting with his presence on 22nd September, 1970 and acquainted himself with the progress of the work. He was introduced to all the members.

At the regular sessions after inauguration the draft Central Bill was taken up for detailed consideration. The Chairman informed the members that the Bill had been divided into Parts instead of Chapters to make it more clear. There was not much difference between the draft circulated earlier and the present except that the present Bill contained some more details.

The members expressed the desire that the principles governing inter-State trade or commerce in weights and measures should be discussed first because other clauses were not likely to take much time, as the Central Bill was based on OIML's recommendations.

Members wished to know whether it was intended that the Centre would enter directly into the field of enforcement of weights and measures in inter-State trade or commerce. The Chairman pointed out that to regulate inter-State trade or commerce and weights and measures were no exception. But it was undesirable to regulate inter-State trade in weights and measures without the concurrence of the States. The problems had to be discussed with an

open mind because it was necessary to ensure in the peculiar situation in the country that powers of the States should not be infringed by the Centre, nor Central powers by the States.

Members expressed the view that the existing State machinery would become superfluous to a certain extent if the Centre entered directly into the field of enforcement. Shri Ramakrishnan felt that State revenue would suffer. He was of the opinion that all States might not enact similar provisions in their respective laws. He expressed the apprehension that dual machinery would create confusion. The members opined that under this system, local trade would suffer.

The Chairman informed the members that it was proposed that as far as possible the State machinery would be utilized and care would be taken to safeguard State revenues. He would discuss the entire matter during the course of the meeting and give the draft of a scheme for the purpose in view. So far as the point that local trade would suffer is concerned, it was baseless. On the contrary, it would give impetus to the local trade.

The draft scheme prepared by the Chairman was circulated among the members. The scheme envisaged that the State Inspector would be provided with two stamps—Central as well as State. Whenever a manufacturer wanted to send weights and measures to any other State, he would get them stamped by the State Inspector with the Central seal and then send them to the other State. The stamp so put would be recognised in all the States. Stamping fee of the manufacturing State and the receiving State would be charged from the manufacturer etc. and proportionately distributed between both the States. And whenever such weight or measure was found to be inaccurate by the Inspector of the receiving State, he would remove the Central stamp and after adjustment and verification put the State stamp, but the Inspector would have to bring this matter to the notice of the Controllers of both the States.

The members felt that the infiltration of unauthorised weights and measures would not be easily detected. Moreover, double fee system would increase the price of weights and measures. It would also be difficult to assess whether the fee in the other State had been paid or not. They said that they would like to have a more detailed scheme and then give their opinion. The Chairman told the members that so far as increase in the cost of weights and measures was concerned, it was not valid. On the contrary, the proposed scheme would cut down the price because much money was wasted now by the manufacturer in sending the weights and measures, getting them verified and stamped, distributing them further to dealers all over the State and bringing back the rejected ones.

A revised scheme was circulated in which the onus was placed on the manufacturer to first pay the fee to the State in which the weight or measure was manufactured and also to the State in which it was to be used. The Inspector of the receiving State would have to put a special mark on the weight or measure before it could be allowed to be used. The Inspector of the receiving State would send a detailed report to the Controller of the State in which it was initially stamped if any defects were found in the weight or measure.

On request by the Chairman all the State representatives agreed among themselves that they would recognize the stamps of the other States. The Controllers were of the view that it would be in the fitness of things if the proposed provisions were made in the State Bill instead of the Central Bill. The Chairman said that since the matter related to inter-State trade or commerce, it might not be possible to provide for inter-State trade or commerce in the State law, but he assured the members that while preparing the draft of the Central Bill, due notice would be taken of the apprehensions expressed by them.

The committee decided to take evidence of the trade representatives of big and small manufacturers at its next meeting. Shri Mainkar was authorised to send invitation to trade representatives. The Central Bill was then taken up for clause-by-clause discussion.

PART I

In view of the change proposed to be made in regard to inter-State trade or commerce, it was felt that it might be necessary to make changes in the definitions. The definitions clause was, therefore, left over for a future meeting.

PART II CHAPTER I

Shri Mainkar explained the background of how the Chapter was based on the recommendations of the CGPM and OIML. He said the standard units had been defined and recommended by the CGPM and the OIML.

Clauses 3, 4, 5, 6, 7, 8, 9 and 10 were adopted.

Clause 11.—The Chairman said the present draft did not seem to be clear and asked the members to suggest suitable amendments. The intention was that things should be sold either in multiples of 10 or part thereof and not in dozens, gross, multiples of 4's, 5's as is done at present.

The members said that clause 11(3) was ambiguous and needed redrafting. The basic unit should remain one.

It was agreed that the clause would be drafted accordingly if felt necessary.

Clause 12 was adopted.

PART II

CHAPTER II

Clauses 13, 14 and 15 were adopted.

Clause 16.—S/Shri Roy, P. Dutt, Khan and Shabbir wanted that the Centre should restrict its control up to reference standards while verification of working and secondary standards should be left to the States as is being done at present.

Shri Mainkar said that considerable power had been delegated to the States and this clause was not going to make any change from the existing pattern.

It was agreed to omit the words "at such place, by such authority". Clause 16 as amended was adopted.

Clause 17 was adopted.

CHAPTER III

Clauses 18, 19, 20 and 21 were adopted.

The provisions of clauses 20 and 21 would be amended slightly to make them uniform.

CHAPTER IV

Clause 22 was adopted.

Clauses 23, 24 and 25.—Such of the clauses as related to inter-State trade would be redrafted suitably, whenever necessary.

PART III

Clause 26.—The members wanted that the provision relating to the appointment of Inspector should be omitted because such appointment would not be necessary in view of the change in provisions for stamping of weights and measures entering into inter-State trade.

In view of the change proposed to be made relating to verification and stamping of weights and measures which are sent from one State to another, it was decided to reconsider this clause.

The clause was adopted.

Clause 27.—The Chairman said that this clause would be suitably revised in view of the change in the provisions for stamping of weights and measures in inter-State trade.

PART IV

Chapters I, II and III were approved.

CHAPTER IV

Clause 36.—The Chairman said that the scheme envisaged for approval of models was absolutely necessary. The models should be thoroughly checked and put to rigorous tests before manufacture of machinery is allowed. One should know how long it was going to last.

Shri Jeelani Hussain wanted to know whether changes in models after approval would be retrospective.

The Chairman said that they could not be retrospective. The manufacturers would be required to get their models re-tested periodically so that uniformity of quality was maintained.

Clause 37 was adopted.

Clause 38 would be suitably amended to provide that model approval would be necessary after periodical intervals.

CHAPTER V

This Chapter would be reconsidered.

CHAPTER VI

Clause 43.—sub-section (1).—Omit “purchase”.

Sub-section (7).—Shri Ramakrishnan said that the word “substantially” created ambiguity and should be omitted. It was agreed to omit “substantially”.

Shri P. Dutt wanted to know when net weight was mentioned, what was meant by less filling. How could we prosecute anybody? It was agreed that the point should be examined. Shri Prem Prakash was of the view that containers were usually made in standard sizes and filling also differed from commodity to commodity in view of the difference in their densities.

S/Shri Ramakrishnan, P. Dutt and Khan said that tolerances for various kinds of packaged goods should be provided, which was not practical. It was better to omit this sub-section.

Chairman did not agree to this view, but said he would examine the point raised.

PART V

Since clause 44 was connected with import and export, it incorporated in Part V.

Clause 44.—Shri Iqbal Ahmed wanted to know whether it would not affect export.

Shri Mainkar informed him that it was a simple device because the Central Government should know who was exporting or importing weights and measures so that imports of non-standard weights, etc., could be curbed. The clause was adopted.

Clause 45.—Some members expressed the apprehension that since all goods were exported in packaged form, it would create difficulty.

The Chairman assured them that he would thoroughly look into this aspect.

Clause 46.—sub-section (2).—Shri P. Dutt wanted that the liability of supplying drawings, etc., in metric system should not be imposed on the foreign country because that country might not be in a position to do so. This would unnecessarily delay matters. They should be converted in India. The Chairman said that where the drawings were available in dual dimensions, they should be obtained. If they were available in non-standard units, the conversion would have to be done in India before commencing production. The clause would be suitably revised.

PART VI

This part was left over for revision by the Chairman because the penalties in respect of inter-State trade would have to be recast.

PART VII

Clauses 76 and 77 were adopted.

The members welcomed the establishment of the Institute.

PART VIII

Clauses 78, 79 and 80 were adopted.

Clause 81.—It was agreed to make the necessary changes in the clause in view of change in the pattern of inter-State trade or commerce in weights and measures.

Clause 82.—It was agreed to amend the clause suitably.

The Committee agreed that a recommendation should be made to all the State Governments to change the name of the Department dealing with Weights and Measures. They suggested 'Department of Legal Metrology'.

The Committee passed a resolution appreciating the services rendered by Shri Khan, Controller of Weights and Measures, Mysore to the Committee. He would be retiring in October, 1970.

The Chairman informed the members that almost all the Eastern, Southern and Northern States had been associated with the work of the Committee. Now only the Western States were left. The Committee recommended that the next meeting should be held somewhere in Western region, preferably in Saurashtra or in Goa.

The Chairman assured the members that a revised draft would be sent to them as early as possible so that they would get sufficient time to go through the draft and have the opinion of the respective State Government well before the next meeting in February, 1971.

The Chairman thanked the Government of Orissa for making excellent arrangements. He said that he was thankful to Shri G.C.L. Joneja, Chief Secretary and Shri Venkataraman, Secretary, Supply Department for attending the inaugural meeting and for taking keen interest in the deliberations of the Committee. He also thanked Shri Satpathy and his staff for sparing no effort in making the deliberations of the Committee a great success.

He expressed his gratitude in particular to the Chief Minister and the Minister of Supply for sparing valuable time for the inauguration of the meeting and for taking deep interest in the problems facing the Weights and Measures Department.

The meeting concluded with a vote of thanks to the Chair.

EIGHTH MEETING—PORBANDER (22—25 FEBRUARY, 1971)
MINUTES OF THE EIGHTH MEETING OF THE WEIGHTS AND MEASURES
(LAW REVISION) COMMITTEE

The Eighth Meeting of the Maitra Committee was held from 22nd February, 1971 to 25th February, 1971 at Porbander. The following were present:—

1. Shri S.K. Maitra,
Joint Secretary to the Government of India,
Ministry of Law, New Delhi (*CHAIRMAN*).

MEMBERS

2. Shri V.B. Mainkar,
Director, Weights and Measures,
Ministry of Industrial Development and Internal Trade,
New Delhi.
3. Shri M. Sivagnanam,
Industries Commissioner and Controller of Weights and Measures,
Government of Gujarat,
Ahmedabad.
4. Capt. C.V. Rao,
Works Manager, Government of India Mint,
Bombay.
5. Shri Ishwar Datt,
Assistant Director, Weights and Measures,
Ministry of Industrial Development and Internal Trade,
New Delhi.
6. Shri V.K.K. Nair,
Assistant Director, Weights and Measures,
Ministry of Industrial Development and Internal Trade,
Madras.
7. Shri M.L. Madan,
Assistant Director, Weights and Measures,
Ministry of Industrial Development and Internal Trade,
Bombay.
8. Shri B.K. Pentiah,
Controller, Weights and Measures,
Government of Andhra Pradesh, Hyderabad.
9. Shri S.N. Mehta,
Deputy Director of Industries and Deputy Controller of Weights and Measures,
Government of Gujarat,
Ahmedabad.
10. Shri A.R. Mohammad Iqbal Ahmad,
Joint Controller, Weights and Measures,
Government of Mysore, Bangalore.
11. Shri S. Jeelani Hussain,
Controller, Weights and Measures,
Government of Tamil Nadu, Madras.
12. Shri P. Dutt,
Controller, Weights and Measures,
Government of Uttar Pradesh, Lucknow.
13. Shri N.C. Roy,
Controller, Weights and Measures,
Government of West Bengal, Calcutta.

14. Shri J. Basu,
Assistant. Controller, Weights and Measures,
Government of West Bengal, Calcutta.
15. Shri H.L. Mahendru,
Controller, Weights and Measures,
Delhi Administration, Delhi.
16. Shri K.D. Sharma,
Controller, Weights and Measures,
Government of Himachal Pradesh,
Simla.

SPECIAL INVITEES

- (1) *M/s Avery India Ltd.*
 - (i) Shri K.S. Lakshminarayan, Calcutta.
 - (ii) Shri N.N. Sahu, Ahmedabad.
 - (iii) Shri Nayar, Ahmedabad.
- (2) *M/s George Salters*
 - (i) Shri J.R. Sareen, General Manager.
 - (ii) Shri S.N. Chattopadhyay.
- (3) *M/s Agra Manufacturers Association, Agra*
 - (i) Shri S.N. Kaushal.
 - (ii) Shri S.N. Mittal.
- (4) *M/s Arjan Valji and Sons, Savarkundla*
Shri Vanmali Arjan.
- (5) *M/s Amantrai Hirachand Doshi*
Shri Dalsukhbhai.
- (6) *M/s Bhavan Mavji and Co., Savarkundla*
Shri Jhavari Ghai.
- (7) *M/s Chitradu Scale Industries, Savarkundla*
Shri Babulal Shamjibhai.
- (8) *M/s Dodia Scale Co., Savarkundla*
Shri Dayalbhai Dodia.
- (9) *M/s Dodia Scale Centre, Savarkundla*
Shri Dodia Bhikhalal Gordhan.
- (10) Shri Dhanji Manji, Savarkundla.
- (11) *M/s Jiva Gopal and Co., Savarkundla*
Shri Durlabhji Jivabhai.
- (12) *M/s Jivan Nagji and Sons*
- (13) Shri Karshan Ramji, Savarkundla.
- (14) Shri Luhar Mohanlal Dahyabhai, Savarkundla.
- (15) Shri Luhar Damji Vashrano.
- (16) Shri Luhar Raja Gordhan, Savarkundla.
- (17) *M/s Mulji Naran, Savarkundla*
Shri S.M. Dodia.
- (18) *M/s Madha Manji and Co., Savarkundla*
- (19) *M/s Gandhi Scale Mfg. Co., Savarkundla*
Shri Tapidas G. Gandhi.
- (20) *M/s Maharana Mills Pvt. Ltd., Porbander*
Shri I Ganatra.



- (21) Shri Mangalal Govindji, Savarkundla.
- (22) Shri Nanji Shamji, Savarkundla.
- (23) M/s Popatlal Govindji and Sons, Savarkundla.
- (24) *M/s Porbander Chamber of Commerce, Porbander*
Shri Vakil, Vice-President, Joint Secretary.
- (25) *M/s Paramount Meters Pvt. Ltd., Jamnagar*
- (26) *M/s S.V. Pathde*
- (27) *M/s Vallabh Shamji*

REPRESENTATIONS RECEIVED FROM:

- (1) Scales, Weights and Measures Merchants and Manufacturers Association,
C/o Hindustan Scale Company, 186/188, Janjibar Street, Bombay.
- (2) National Tape Co., Ferozapore Road, Ludhiana-1.
- (3) Standard Mechanical and Iron Works,
Pratap Nagar Road, Baroda.
- (4) Central Gujarat Chamber of Commerce,
Federation Building, R.C. Dutt Road,
Baroda-5.
- (5) The Scale Manufacturers Association,
Savarkundla.
- (6) George Salter India Ltd., Calcutta.
- (7) Kanta Karigar Association, Savarkundla.
- (8) Gujarat Chamber of Commerce and Industry, Ahmedabad.
- (9) Agra Weights and Measures Manufacturers' Association,
88, North Vijai Nagar, Agra.
- (10) Gujarat Tolmap Vepari Mandal, 1115/1,
Pankorenaka, Ahmedabad.
- (11) Baroda Timber Merchants' Association,
Madanzampa Bakrawadi, Baroda-1.

Shri M. Sivagnanam, Industries Commissioner, Government of Gujarat who opened the meeting said that he was glad that the meeting held in Gujarat at Porbander and that the various interests, including the manufacturers of beam scales at Savarkundla, had been invited to attend the meeting so as to get the benefit of their views.

He said that consumer protection was an important aspect of enforcement of weights and measures. In order to achieve uniformity of weights and measures and to ensure consumer protection, it was necessary to evolve a coordinated approach to problems and enforcement should be strict and good. He was of the opinion that even if the Law was good, bad enforcement could set it at naught. A good Law and good enforcement, therefore, had to go hand in hand to achieve the aims and objects of the Law. He was aware that certain Government Departments were infringing the Law. These Departments had to be brought round to follow the law of the land. Trade Unions, which were concerned with the welfare of workers, should also be interested in good enforcement of weights and measures because wages, bonus and many other dues of workers were calculated on the basis of weighing and measuring.

After thanking the Government of Gujarat for making arrangements for the meeting, Shri S.K. Maitra, Chairman of the Committee, said that one of the main reasons for holding the meeting in Porbander was to enable the small and cottage scale manufacturers of beam scales at Savarkundla, who could not travel long distances, to present their view-point, particularly in respect of a suitable solution to the problem of inter-State trade and commerce in weights and measures. He felt that with the co-operation of the members of the invitees, it would be possible to arrive at an acceptable solution to this long standing problem.

The Chairman pointed out that weights and measures were not just objects used in grocery and vegetable shops, but had an important bearing on the human being and his modern economy. He welcomed all the invitees and requested them that they should give their frank opinion on the scheme to facilitate inter-State trade or commerce in weights or measures, so that an acceptable scheme could be evolved.

The Chairman then invited the representatives of various Associations to express their views on the provisions of the Central Bill relating to the verification of weights and measures, which were the subject of inter-State trade or commerce. He pointed out that the powers with regard to inter-State trade could only be provided in the Central Bill as the Constitutional entry relating to inter-State trade and commerce was in the Union list. Further, any curtailment of the free flow of trade would infringe Article 301 of the Constitution. It was against this background that a scheme with regard to inter-State trade or commerce in weights and measures could be evolved.

The Chairman then took up the various points that were raised by the members, representatives of the manufacturers and Associations. The following points emerged:—

(1) *Section 2(n)—Definition of Manufacturer*

The representative of M/s Avery India Ltd. said that they had a number of establishments which assembled parts manufactured in the Central factory at Calcutta. The definition of manufacturer, as it was drafted would, in his opinion, require them to obtain a licence in every State for every such establishment. The Chairman clarified that a manufacturer included his agent and, therefore, it was not necessary for every establishment of Avery's to obtain a separate licence. He agreed that in the definition of manufacturer, the following words under sub-clause (a) "or many part thereof" should be deleted because these words could be interpreted to mean that even if a small nail was used in a weighing machine, the nail manufacturer may be required to take a licence.

(2) *Section 2(3a)—Definition of Working Standard*

The Chairman agreed that the definition of Working Standard should be amended to indicate that the working standard was to be used for the verification of standard weights and measures other than secondary, reference and higher standards.

(3) *Section 3—Provisions of this Act to over-ride the provisions of other Acts*

It was agreed that this section should be examined to ascertain whether it resulted in a complete over-riding of State Weights and Measures Acts.

(4) *Section 35—Approval of models*

The representative of Avery sought a clarification of the meaning and scope of the word "model". For example, if a machine, based on the same principle, was manufactured in capacities of 100 kg, 200 kg and 500 kg, would it be necessary to get approval for all the three or would the approval of one machine cover the approval of the other two? The Chairman clarified that he would consider this point but it was generally intended that the international practice in regard to the model approval would be followed in India under the Standards of Weights and Measures Act.

(5) *Section 35—Approval of Models*

The representative of George Slater and Co. asked why the model approval scheme could not be made applicable to all weights and measures irrespective of whether they formed part of an inter-State or intra-State transaction? His argument was that the approval of model was the establishment of the standard of performance of the machine concerned. The Chairman pointed out that it was not necessary for very small manufacturers who would be trading only within the State, to obtain approval of model from the Centre. Such manufacturers would be unable to enter into inter-State trade or commerce. The Controllers of Weights and Measures also felt that the model approval scheme should apply only to such manufacturers as would have inter-State dealings so that small manufacturers as would have—State dealings could be left out from the purview of the Central Act. The Chairman agreed with the view of the Controllers.

(6) *Section 36—Licence to manufacturers of weights and measures when not to be issued*

It was agreed that this section should give guiding principles to be followed and should be persuasive in character. This section would be redrafted.

(7) *Sections 39 to 45—Verification and stamping of weights and measures sent from one State to another.*

The various Associations indicated the difficulties that they would meet in the implementation of the new Central Act in respect of inter-State trade or commerce in weights and measures. The consensus was that the relevant clauses in the draft Central Bill circulated to the invitees would not eliminate the difficulties which had been felt earlier by the trade. The ideal solution would be that there should be a Central stamp or the stamp of one State should be regarded as valid in all the other States and only if, on inspection, a weight or measure was found to be defective, it should be reverified by the Inspectors of the State in which the weight or measure was intended to be used. After considerable discussion lasting over a day, the following general scheme was adopted:

For the purpose of inter-State trade or commerce, weights and measures should be divided into two categories namely, those which could be stamped at the factory, despatched as parts and installed at the site and verified and stamped before use. In the latter case, the stamping at the factory might not be necessary. The State Inspectors would verify the weights and measures of the first category initially at the factory and would put a special stamp on such weights and measures and charge a fee which would be prescribed under the Central Act. The stamp affixed by the Inspector of the transferred State would be valid in all the transferee States. The re-verification of such weights and measures would, however, fall due as prescribed under the State Act. In order to compensate the States for the loss of revenue occasioned by the verification and stamping of weights and measures in accordance with the scheme, the fees for initial verification of weights and measures of both the categories could be kept higher than the normal fees charged under the State Act. With the extension of the weights and measures activities in future any apparent loss of fees occasioned by the new scheme would be more than compensated.

This scheme was agreed upon by members as well as invitees.

It was also recommended that the Government of India should write to all the States about this agreement and request them to implement the scheme by mutual agreement until the new Act was passed. The Chairman was also of the opinion that the new scheme would eliminate the defects inherent in the old practice which violated Article 301 of the Constitution and was, therefore, unconstitutional.

(8) *Section 47—Import and export of weights and measures*

The point was made that it was not necessary to register exporters of weights and measures. They were already registered under the incentives scheme and also with the Engineering Export Promotion Council. The general consensus of opinion was, however, that in order to make raw materials available and to export quality goods, it was desirable to register exporters. Such registration under the Central Act would not affect the freedom of action of the Engineering Export Promotion Council or the incentives scheme. The Chairman indicated that he would re-examine the provisions in the light of the discussions.

(9) *Section 49—Penalty for use of non-standard weights and measures*

Some of the members felt that this section might overlap the provisions of the State Act. The Chairman said that there was no overlapping but he felt that it would be desirable to prescribe penalties in such a manner that if any offender escaped under the State Act, he could be caught under the provisions of the Central Act. He agreed that the section would be amended, if necessary, from this point of view. The Chairman said that as the fields of the Central and the State Acts had been clearly defined, overlapping could be avoided. This was particularly necessary in the section dealing with definitions and packaged commodities. This was agreed to by all the members.

(10) The Chairman then indicated that as the Central and State Acts were finalised, it would be necessary that the next meeting should approve the Report and the Bills in the next meeting. It was agreed that the next meeting should be held at Dalhousie in Himachal Pradesh in June or early July, 1971.

It was further agreed that after finishing the work of preparing the Act, the Committee should devote its attention to the preparation of rules so that the rules would be ready by the time the Central and State Bills, recommended by the Committee, were passed into Acts by the Parliament and State Legislatures.

It was also agreed that representatives of manufacturers and their Associations should also be invited to the meeting at Dalhousie.

With a vote of thanks to the Chair, the meeting concluded on 25-2-1971.



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NINTH MEETING—DALHOUSIE (24-30 JUNE, 1971)

MINUTES OF THE NINTH MEETING OF THE WEIGHTS AND MEASURES (LAW REVISION) COMMITTEE

The Ninth meeting of the Law Revision Committee on Weights and Measures was held under the Chairmanship of Shri S.K. Maitra, Joint Secretary in the Ministry of Law at Dalhousie from 24 to 30 June, 1971. It was attended by the members of the Committee, Controllers of Weights and Measures of the Northern Region, the Regional Officers of the Directorate of Weights and Measures and the representatives of Associations of Weights and Measures Manufacturers and Dealers. The list of the participants is given in *Annexure*.

The Chairman, in his opening remarks thanked the Government of Himachal Pradesh for inviting the Committee to hold its meeting at Dalhousie and for the excellent arrangements that had been made for the meeting and their stay at Dalhousie. He particularly thanked the Controller of Weights and Measures, Himachal Pradesh and his officers and staff who had helped in making all these arrangements.

He said that the meeting was important as it would lead to the finalisation of the draft Report and the draft laws. He asked members to make unreserved comments about the Bills and the Report so that the Report and the Bills could be finalised.

For the benefit of the invitees he gave the background of what was meant by standards of weights and measures and the need for having uniformity in the standards of weights and measures.

He said the laws were being revised to bring them in conformity with the international recommendations and the adoptions of SI units by the CGPM and the OIML. Besides SI units, the Committee had recognised a unit of numeration so that trade and commerce as well as all numeration in future may be in multiples of ten. He also explained that except the kilogram no other basic unit had an easily visible physical representation. All other units were based on physical constants, which could be determined only by elaborate scientific apparatus operated by highly qualified scientists.

He explained further that in the revised Central Law, the regulation of commodities in packaged form, inter-State trade and commerce, approval of models, establishment of the Central Training Institute, conducting of surveys and collection of the statistics, etc., were being covered. On the basis of the results of surveys, the laws will be gradually extended to different fields of human endeavour.

He assured the members that every endeavour had been made to ensure that there was no encroachment by the Centre on the State's powers. He explained that due care had been taken to see that the incomes derived by State Governments from the verification and stamping fees may not suffer by reason of the introduction of the special stamp for inter-State trade and commerce in weights and measures.

He told the Committee that a copy of the complete Report had been sent to Mr. Van Male, President of the CIML and the German experts for their concurrence with regard to the discussion with them mentioned in the Report.

He also asked the members to read carefully Chapter VI of the Report and suggest the changes they would like to make.

The Chairman asked the members initially to give their general comments about the Bills as clause-by-clause consideration would be taken up later.

Shri Khan, Deputy Controller, Maharashtra, submitted a memorandum, in which it was argued that according to his Government, there was no Constitutional basis for the

revision of the Central Act to cover inter-State trade and that it encroached on the State's powers. Shri Pednekar, representing M/s Saples Scale Manufacturing Company and M/s Libra Industries, supported the views expressed by Shri Khan.

The Chairman explained that the power to regulate inter-State trade and commerce was an exclusive Constitutional power of the Central Government ; the States could have no say in the matter. Still, the Centre has no intention of interfering with the enforcement of the Central law by the States. The entire field of enforcement had been left by the proposed law to the State authorities. There was thus no encroachment by the Centre. The Central Directorate would only co-ordinate the enforcement of the laws by the States.

Shri Khan said that the Central law should confine itself only to the establishment of standards, as Centre could not enact laws when it had no powers to enforce the law and that the present laws should be allowed to continue. The Chairman gave him the example of Indian Penal Code, Criminal Procedure Code, etc., which were Central laws but whose enforcement was in the hands of the States.

The Chairman then invited the Secretary of the Agra Weights and Measures Manufacturers' Association, Shri B.N. Mittal, to give evidence before the Committee on the two draft Bills. Shri Mittal submitted a memorandum listing certain suggestions. In reply, the Chairman said that it would not be correct to include persons who only manufacture any part singly and supply the same for assembling of product to a manufacturer, in the definition of manufacturer. About the suggestion that the State Controllers should have technical qualifications, the Chairman said that they were so recommending in Chapter VI of the Report. He further added that testing of models of ordinary type of weights and measures would be left to the States, while more sophisticated instruments would be approved by the National Metrological Laboratory, at the Centre. He further clarified that in case a particular raw material was not available in the market, which was used in the Model approved by the Central Government, it would be permissible to use substitute materials in such cases after information is sent to the Laboratory about it by the manufacturer. On a query by Shri Laxmi Narayan, Service Manager, Avery (India) Limited, Calcutta, the Chairman clarified that in so far as the existing models of machines were concerned, they would be exempted from being produced for approval, while future models of machines would have to be presented for approval before their regular production may be undertaken by the manufacturer.

The Chairman said that the Committee would be recommending in the Report the appointment of such officers as Controllers who would stay in the post for a number of years so that they could be really useful to the Department. He clarified that it was essential that security should be demanded from repairers and not from manufacturers or dealers, and the amount might vary according to the status and turn-over of the repairer. The Chairman promised to look into the relevant clause again to provide sufficient opportunity to the manufacturer before his licence was suspended for the contravention of the Act, so that there was no undue harassment.

Shri Kaushal representing National Chamber of Industries and Commerce, U. P., Agra, submitted a written memorandum giving suggestions for amendments to certain clauses to the draft Bills. It was suggested that fee for stamping should not exceed the cost price of the product. The Chairman felt that in certain cases it could not be helped as the fee had to be commensurate with the service rendered. He, however, assured that while framing draft Rules, this point would be further looked into. Taking up the suggestions for amendment in the proposed State Weights and Measures Bill, the Chairman said that most of these suggestions had already been discussed in earlier meetings. He agreed that a show cause notice should be given to the manufacturer before his licence was cancelled for the contravention of the Act. He was, however of the opinion that it was not possible that verification of weights and measures in every case should be done at the premises of the manufacturer. It was for the State Controller to provide this facility to the manufacturer or dealer if he was satisfied that the verification fee would bring in a minimum amount of income to be fixed by him for the purpose.

Shri Mascarenhas, representing the weights and Measures Association Bombay, said that it would be better if the Weights and Measures Department confined themselves to their present activities and consolidated the fields at present in their hands. He wondered how

it would be possible for the personnel of Weights and Measures Departments to take into their hands such sophisticated fields as air pollution, water pollution, and pollution of environment, etc., when they did not have the technical competence with them. He cited the instance of the Railways and Posts and Telegraphs, the two big Government Departments, to which the Weights and Measures Acts had not been extended as yet and as a result, a large number of clientele of these two Departments was being defrauded. He emphasized that the Committee should go by the present realities of the situation to protect the consumers' interest rather than talk of fields and activities fifty years ahead and which did not really concern us.

The Chairman pointed out that Shri Mascarenhas had probably, misunderstood the purpose of Chapter II. It was not intended by the Committee that Inspectors of Weights and Measures would check the pollution of air or water. What that Chapter seeks to establish is that there is hardly any field in which legal metrology does not have any role to play.

Shri Khandelwal requested that double marking of tapes, etc., should be stopped. But Shri Pandit said that since double marked tapes, etc., were being manufactured for export, their production should be allowed. The Chairman explained that standard of length being the metre, indication of length in any tape in inches or other non-standards units amounts to a contravention of law. As such, double marked tapes cannot be allowed to be manufactured. In relation to tapes which are exported out of India, relaxation of their provision may be made on the same lines on which such relaxations have been made with regard to other standards of weights and measures.

Shri Laxmi Narayan, Service Manager of Avery (India) Limited, Calcutta, presented his written comments to the Committee. It was clarified by the Chairman that a branch of a manufacturing concern was included in the term "manufacturer" and that no separate licence was, therefore, necessary to be obtained by its branches. As a result of this clarification many of their other suggestions, being consequential were not pressed.

Shri Chattopadhyaya representing M/s. George Salter (India) Ltd., Calcutta, who had earlier circulated written comments to the members of the Committee, said that almost all his comments had already been discussed in the meeting except the one relating to OIML standards.

In reply, the Chairman said that the OIML standards would be adhered to as far as possible, keeping in view the conditions prevailing in India. He saw no objection if the representatives of the industry were allowed to take part in the deliberations at the time of formulation of specifications for different weights and measures.

Shri Puri, representing Libra Industries, complained that their "Not for Trade" weights and measures such as bathroom scales, kitchen scales were required to be stamped by some of the State Controllers. He pleaded that the category of "Not for Trade" weights and measures which is primarily meant for domestic or personal use should not come under the purview of the Weights and Measures Acts as the accuracy required for such instruments was much less than the accuracy expected from the commercial scales. He further pleaded that if such scales were to be also brought under the purview of Weights and Measures Act, he would have to make drastic changes in the design of his weighing machine. The cost of production, according to him, would also go up. He further added that no country in the world, except France, required such domestic weighing machines to be stamped. He, however, added that the Committee should consider whether it would be possible to prescribe slightly lower specifications for such weighing instruments in comparison to the specifications prescribed for machines predominantly in use in commercial fields.

The Chairman remarked that Shri Puri was, in effect, suggesting that there should be double standards of accuracy of measurement, namely one standard of accuracy for commercial measurements and another standard of accuracy for personal weightings. He remarked that India has not yet attained that amount of prosperity as to generate a substantial demand for bathroom scales or kitchen scales. Even where there is such a demand, the person who purchases a bathroom scale or kitchen scale has a right to expect that the measurements recorded by the instruments are accurate. The inaccuracy of the measurement may, in such cases, lead to many undesirable consequences. Therefore, there was no justification for claiming a lesser degree of accuracy for personal weighing machines.

Further, experience shows that the personal weighing machines are not only used by the housewives but are also used by the doctors and in clinics, hospitals and schools. Recently, as a result of an inaccuracy in a personal weighing machine, a Brigadier, known to the Chairman, was on the point of being declared to be unfit for further service. He had great difficulty in establishing that the weighing machine was faulty and when he was weighed on an accurate machine it was found that his weight was within the permissible limits. This instance, though isolated, would indicate the danger of having an inaccurate personal weighing machine.

The Chairman further explained that experience shows that owing to cheapness, the so-called personal weighing machines find their way into the market, and wherever they were checked, 60% of them were found to be faulty. The demand for such weighing machines fell sharply wherever the accuracy of such machines was checked and Shri Puri himself admitted that no dealer was prepared to accept the dealership of such personal weighing machines in the States or Union territories where such machines are rigorously tested. This admitted steep fall in the demand for these personal weighing machines clearly refutes the plea that these personal weighing machines are in great demand and further indicate that the label "NOT FOR TRADE" is only a cloak to circumvent the law in respect of the requirements with regard to the accuracy of measurements.

With regard to Shri Puri's contention that he would have to close down his factory if he is not allowed to manufacture the weighing machines with the label "NOT FOR TRADE" the Chairman pointed out that Shri Puri was well aware that definite specifications have been laid down by law for personal weighing machines. He had none but himself to thank for the discomfiture because, instead of manufacturing personal weighing machines in accordance with the specifications laid down for those machines, he was manufacturing personal weighing machines in accordance with specifications which have not been approved by Central Government. The Chairman felt that the maximum which the Committee may do to help Shri Puri was to lay down a new specification for personal weighing machines so that Shri Puri may, with minor adjustments in his factory, be in a position to manufacture personal weighing machines in accordance with such new specifications.

As regards Shri Puri's contention that adherence to rigorous specifications would cause an increase in the price of the personal weighing machines, the Chairman felt that the past experience does not justify such an apprehension. But even if there is some increase in the price the consumer (who would, in most cases, be a person in the very high income brackets) would be willing to pay slightly higher price in exchange of the higher degree of accuracy and reliability which would be ensured to him by the new instrument.

Shri Pednekar felt that the fees prescribed were very high and should be reduced as these being a service charge, should not be a source of revenue for the Government.

The Chairman explained that the amount specified in the Bill is the maximum amount which may be charged by way of fees. The actual scale of fees would depend on the quantum of service rendered and could be specified in the rules. He, however, agreed that the fees should not be a source of revenue; it would have to be commensurate with the services rendered.

Shri Pandit, representing Weights and Measures Association of Bombay was of the opinion that there should be two separate Acts—one relating to laying down of standards and the other for inter-State trade purposes, and that the enforcement by the Central Government would mean dual enforcement control. According to him, it would serve the purpose if goods stamped by one State were honoured in the other State as was recommended in an earlier meeting of this Committee.

The Chairman in reply said that both the establishment of standards and the regulation of inter-State trade were being covered in the present revised Central Bill. There was no point in having two laws to deal with one subject. He made it clear that there would be no dual machinery as the enforcement of both the Central Act as well as the State Act would be done by the officials of the State Government. The Chairman further explained that a law relating to honouring the stamp made in one State by the other State can be made only by Parliament in relation to inter-State matters and that has already been done.

Shri P. Lal of Avon Scales, Sonapat, said that the penalties prescribed in the new draft bills were very heavy and in many cases imprisonment had been laid down for second and subsequent offences. He pleaded that the industry did not deserve such severe punishment of imprisonment for second offence which sometimes may occur on account of some technical mistake.

The Chairman said that the penalties had been prescribed so that evasion of the law could be checked as cases had come to notice where courts had imposed a nominal fine on the defaulters, as a result of which the defaulters found it to be more profitable to break the law than to observe it. Moreover, the imposition of the punishment was in the discretion of the courts which, no doubt would consider the seriousness or otherwise of each case. The Chairman said that he would look into the penalty clauses which might be harsh.

Shri Lal desired that the scale of repairing charges should be fixed by the law. The Chairman said that it would not be possible to specify the repairing charges but, nevertheless, it is desirable that some check may be effected, administratively, so that the customers were not fleeced by the repairers.

Shri Khandelwal, representing Weights and Measures Dealers Association, Delhi, said that according to the new procedure suggested in the draft bill, the dealers of weights and measures would be very much handicapped in that period of validity of goods received by them which would be stamped in the originating State, according to revised bill, may expire before their sale could be effected. In such cases, therefore, they would have to pay the stamping fee once again as no buyer liked to buy weights and measures which had been stamped in previous quarters.

The Chairman said that he would look into the difficulty regarding the validity of the stamp on weights and measures traded in inter-State transaction. Possibly the period of validity could be taken from the date of sale of such weights or measures.

Shri Aggarwal, representing Weights and Measures Association, Kanpur, suggested that it was essential for the protection of consumers' interest that balances should be hung from stands so that the trader does not manipulate the balance to his advantage with his hand. He also suggested that the stamping fee should not exceed the cost of the weight or measure, otherwise it would be advantageous to sell such weights or measures without getting them stamped. The Chairman said that these points could be considered.

Shri Jairaj of Acme Industries, Jullundur, said that the Committee should consider the reduction of the heavy penalties in the draft bills. He also pleaded for deletion of sub-para (4) in the definition of manufacturer as otherwise, every person who morally put his brand name on an article would become a manufacturer although he had not manufactured the article at all. The Chairman did not agree with the views of Shri Jairaj.

CENTRAL BILL

The Central Bill was taken up by the Committee for clause-by-clause consideration.

Clause 1.—Short title, extent and commencement.—In the long title, the following change was made:—

After "other goods" insert "which are sold or distributed by weight, measure or number".

Clause 2(a)—Calibration.—It was Explained by Shri Prem Prakash that calibration would perhaps be covered by verification. Chairman said that he would consider whether the definition of "calibration" should be retained.

Clause 2 (f) (i) (b)—false weight or measure.—It was agreed that it would be desirable to add a new definition for "unverified weight or measure" because it would be too severe to treat such weights and measures as false weights and measures.

Clause 2 (n)—manufacturer.—This definition should be recast to provide that where a person purchases a complete weight or measure and puts his trade-mark thereon, whether after making slight adjustment or not, such person should also be treated as a manufacturer.

It was agreed to add on explanation so that branch office of a manufacturer may not be treated as manufacturers.

Clause 2(n) (ii)—Manufacturer.—It was agreed that this was too wide and should be omitted.

Clause 2(x)—stamp.—It was decided that the definition of “stamp” should be amended so as to include “obliteration” stamp which is made to indicate obliteration of the previous stamp.

Clause 11.—The words “or other” were substituted for “secondary” to bring special and other units also within the purview of the law.

Clause 22.—Some members felt that the proviso to section 21 and section 22 were perhaps overlapping. The Chairman said that section 21 referred to non-standard weights and measures, while section 22 was intended to prohibit inscriptions in FPS units.

Clause 28.—It was argued by some members that the powers given in clause 28 to the Director may be re-examined to streamline them with the trend of the Bill. The Chairman said that clause would be re-examined.

Clause 29.—The words “liable to be” were inserted after the words “shall be”.

It should be considered whether clause 29 could form part of the part on inter-State trade and commerce.

It was also decided to add a proviso suitably to provide that where stamping fee, etc., is paid, no forfeiture shall be made.

Shri Prem Prakash said the use of the term “standard weight or measure” was not correct for verified weights or measures. Chairman explained to him why this had been done.

Clause 30.—In (ii) the words “by weight measure or number” were inserted at the end to bring it in line with the scheme of the Bill.

Sub-clause (iii) was changed as follows:—

“(iii) every service which is rendered by weight, measure or number in relation to, or in the course of, inter-State trade or commerce.”.

Clause 32.—Since the proviso forms a part of export requirement and not of inter-State trade or commerce, it should be transferred from this clause and added to the appropriate clause.

Clause 34 (2).—It was agreed that the words “registers before the Director for inspection”, the words “registers for inspection before the Director or such other officer as the Director may authorise in this behalf, for inspection” should be substituted.

Clause 35.—*Approval of models*—Chairman told the Committee that after hearing the manufacturers, and on the basis of discussions with members he had devised a plan on the following lines:—

(1) Approval of models under the Central Act should be applied to sophisticated weighing and measuring instruments and not to ordinary bazaar weights and measures

(2) Approval would be necessary for new models and existing models need not be tested provided that where the Controller or other officer finds that a particular instrument manufactured in accordance with an existing model, is not giving satisfactory service, he may obtain one such instrument for the market and send it to NPL for testing. In such a case the testing fee would be paid by the Controller.

(3) Approval of models should be limited to the model of one capacity where more than one model is manufactured on the same design.

(4) Where there is a shortage of raw material needed for the manufacture of any machine in accordance with an approved model, the manufacturer could substitute it with another material, of similar properties. But he should send an intimation about the

substitution of the material to the NPL and where NPL asks for a sample of such substitute material, the manufacturer should send the same to the NPL, and the NPL would either approve such substitute material or suggest another substitute material and where the NPL has suggested a substitute material, the manufacturer would be under an obligation to make use of such substitute material.

This scheme was approved. These changes would be incorporated in the chapter dealing with approval of modes.

Clause 38.—Shri Madan said that some manufacturers in Bombay were by-passing the law by mentioning the gross weight instead of the net contents of the commodity, thereby cheating the consumers.

Chairman agreed that a provision could be included in the Bill or rules banning the mentioning of the gross weight.

Clause 40.—In sub-clause 1(b) and in sub-clause (4) for the words “at the site where it is intended to be used”, the words, “for use” should be substituted.

Clause 41.—Shri Mehandru thought that it would be desirable that the intimation should be sent through the controller. This was agreed to.

Clause 41 (b) (i).—It was agreed that for “make” “cause” should be substituted and for “necessary to make” “necessary to be made so as to make” should be substituted.

Clause 43 (1).—It was agreed that “at the site which it is intended to be used”, the words “for use” should be substituted.

Clause 46 (1).—It was agreed that for the word “person”, the words “dealer or manufacturer” should be substituted.

PART V

CHAPTER II

It was agreed that the heading should be changed to “Export and Import of weights, measures and commodities in packaged form”.

Clause 47.—It was agreed that the marginal heading be changed as follows:

“Conditions under which export of non-standard weights and measures and other goods may be made.”

It was agreed that the sub-clauses should be re-arranged.

Clause 48(2).—Shri Nair pointed out that there were countries where metric system was in force but export in non-metric units was allowed. Such cases should also be covered.

Chairman said that provisions could be made so that such cases may also be covered.

Clause 49.—It was agreed that a new section should be added about short weighing or short measuring in inter-State trade or commerce.

Clause 53.—Shri Khan said that the word “duties” should be substituted by the word “powers”. The Chairman said he would examine the point.

Clause 69.—It was agreed that the case of false returns should also be included.

Clause 72.—Shri Dutt pointed out and the Committee agreed that since non-maintenance of records, etc., has not been made a serious offence, it should also be made compoundable.

An explanation should also be added to the effect that any second or subsequent offence compounded after three years shall be considered as a first offence.

To sub-clause (2).—The following Explanation should be added, namely:—

“*Explanation.*—For the purposes of this sub-section, any second or subsequent offence committed after the expiry of a period of three years from the date on which the offence was previously compounded, shall be deemed to be a first offence.”

It was pointed out that since the composition of offences would be made in practice by the Controller, the composition fee should also be received by the State. So the word "Central" was omitted from sub-clause (1).

Clause 75.—In sub-clause (4), for the word "shall", the words "may" was substituted.

Shri S. N. Singh, Principal, Training Institute, said that a statutory provision for the making of regulation to administer the Institute should be made and power should be given to make regulations to administer the Institute. This was agreed to.

The Committee authorised the Chairman to make such changes in the State Bill as would be necessary on account of changes in the Central Bill.

STATE BILL

The State Bill was taken up for consideration. The Chairman said that as most of the clauses of the State Bill had already been agreed upon, clause-by-clause discussion was not necessary and comments only should be considered.

Clause 2.—Shri Khan wanted that this clause should be omitted. The Chairman explained that it would be all the more necessary because State Legislatures had no powers to legislate with regard to inter-State trade and commerce.

CHAPTER IV A

There was considerable argument in favour and against the retention of this chapter. Some members suggested that either this chapter should be obligatory or should be completely omitted. Some members also suggested that it should be drafted in such a way that the provisions could be extended from district to district. Ultimately it was agreed that it should be retained in its present form.

New Clause 16.—It was agreed that after section 15C a new clause should be substituted so as to make the provisions of the Central Bill relating to approval of models applicable to weights and measures intended for use within the State.

The provision should be optional.

Clause 16(8).—For "licensee" substitute "repairer licensed".

Clause 17(1).—The proviso was changed as follows:

"Provided that no such licence shall be suspended unless the holder thereof has been given a reasonable opportunity of showing cause against the proposed action."

Clause 23(2).—It was pointed out by Shri Mehandru and Shri Joginder Singh that weigh-bridges and petrol pumps were frequently shifted. They should be covered. Chairman said that this would be done.

Clauses 25 and 26.—It was observed by the Committee that the powers given to an Inspector were arbitrary. It was agreed that guidelines should be provided for the use of those powers.

Clause 29(b).—Shri Mehandru pointed out that it would be very difficult to make payment for every packet opened. Moreover, the Inspector was not expected to have so much money with him. He said that 29(b) should be omitted.

The Chairman explained that without this stipulation, the whole provision would become unconstitutional. It would, of course, be provided that where the tin, etc., was not opened no payment will be made.

Clause 33.—It was agreed that in sub-clause (1), for "fifty paise", the word "one rupee" should be substituted.

Clause 34.—It was decided to separate the two points in (b).

The words "or with fine which may extend to two thousand rupees, or with both" were omitted because it was considered that the manufacture of non-standard weights and measures was a serious offence. It was also necessary to stop the manufacture of double-marked tapes, etc.

Clause 37.—It was agreed that the marginal heading should be changed as follows.

“Penalty for keeping non-standard weights or measures for use, and for other contraventions.”.

Further, sub-clause (2) should be revised to clarify its intention.

Clause 60.—Shri Mehandru pointed out that there were cases when the employer dismissed the employees after some contravention of the law was made and the employer gave the plea that the offence was committed without his knowledge and the employee was no more in his service. The Chairman said that the principle of vicarious responsibility was applicable in this case, but still the employer could take such a plea after the service of summons. The Chairman said that the clause would be revised so as to cover such cases.

The Committee then took up the discussion on “NOT FOR TRADE” weights and measures. He read out the relevant portion of Chapter IV of the draft Report about the elimination of the practice of marking the weights and measures as “not for trade” and asked the members to give their uninhibited opinion about the matter. All members of the Committee, except Shri Khan, agreed that the distinction should be altogether abolished.

DRAFT REPORT

The draft Report was then taken up for consideration.

CHAPTER I

Shri Dutt said that it would be desirable to do some more research to find out what was the type of organisation and the punishments, etc., prescribed during the reign of Chandragupta Maurya. He requested the Chairman to make a mention of these matters in the Report.

It was also agreed to expand the portion relating to explanations about legal metrology.

Shri Madan suggested that it should be mentioned in the Report how the 1956 Act was extended by phases to different fields.

It was suggested that instead of mentioning that ‘as a result of the visit of the Committee the enforcement in the States improved’, it would be preferable to say that ‘better appreciation about the need for regulation of weights and measures was witnessed’.

CHAPTER II

The Chairman explained that this Chapter was included in the Report with a view to remove the lack of understanding as to the wide range of human endeavour which has to be regulated through legal metrology.

He said that a paragraph would be added at the end to clear up the misunderstanding which was evidenced from the comments made by some of the invitees.

CHAPTER III

The chapter was approved.

CHAPTERS IV AND V

These Chapters would require consequential changes in view of the changes made in the draft Bills.

CHAPTER VI

It was agreed that it should be stressed in the Report that Controller should be continued for longer periods in the Department because frequent changes hampered the enforcement of the law.

It was also agreed that it should be recommended that the Controller should have exclusive charge of this Department.

It was suggested that the 'revenue' aspect should be changed into the 'service' aspect. The Chairman said that the decisions of the Supreme Court would also be cited in support of the service aspect.

Some members thought that the mention of Methods of Recruitment might fall outside the scope of the Committee and was likely to encroach upon the field of the Organisation Committee. So the subject matter relating to this should be omitted. It should, however, be ensured that there was a co-ordinated approach between this Committee and the Organisation Committee with regard to the framing of recruitment rules.

It was suggested that some mention should be made in the Report about the need for early adoption of metric units by the departments of the Government, which have not yet done so.

It was suggested that a recommendation should be made in the Report about publicity and education of people through various media.

It was also suggested that it should be recommended that separate Magistrates should be allotted to the Weights and Measures Department for enforcing the provisions of the law.

The meeting concluded with a vote of thanks to the Chair.



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ANNEXURE

LIST OF ATTENDEES AT THE MEETING OF THE MAITRA COMMITTEE
HELD AT DALHOUSIE FROM 24 TO 30 JUNE, 1971

1. Shri S. K. Maitra — *Chairman*
2. Shri Prem Prakash, National Physical Laboratory, New Delhi.
3. Capt. C. V. Rao, Government of India Mint, Bombay.
4. Shri S. N. Singh,
Principal, All India Training Institute of W & M, Patna.
5. Shri M. L. Madan,
Assistant Director, W & M, Bombay.
6. Shri Ishwar Datt,
Assistant Director, W & M, Delhi.
7. Shri V. K. K. Nair,
Assistant Director, W & M, Madras.
8. Shri B. K. Pentiah,
Controller, W & M, Andhra Pradesh.
9. Shri C. P. Shastri,
Controller, W & M, Bihar (Patna).
10. Shri H. L. Mehandru,
Controller, W & M, Delhi Administration, Delhi.
11. Shri Pratap Singh,
Controller, W & M, Haryana.
12. Shri K. D. Sharma,
Controller, W & M, Himachal Pradesh.
13. Shri R. N. Wariku,
Dy. Controller, W & M, Jammu & Kashmir.
14. Shri P. Rajagopalan,
Dy. Controller, W & M, Kerala.
15. Shri K. K. Kapoor,
Assistant Controller, W & M, Madhya Pradesh.
16. Shri M. A. Khan,
Dy. Controller, W & M, Maharashtra.
17. Shri Joginder Singh,
Controller, W & M, Punjab.
18. Shri P. Dutt,
Controller, W & M, Uttar Pradesh.
19. Shri N. C. Roy,
Controller, W & M, West Bengal.
20. Shri P. K. Sen Gupta,
Assistant Controller, W & M, West Bengal.

The representatives of following manufacturers, repairers and dealers or associations also attended the meeting on special invitation to present their evidence:

A—Representatives of Associations

1. Shri B. N. Mittal,
Agra Weights and Measures Manufacturers Association, Agra.
2. Shri Mascarenhas and Shri M. V. Pandit,
Bombay Weights & Measures Association,
Bombay.
3. Shri C. B. Khandelwal,
Delhi Registered Weights & Measures Dealers Association, Delhi.
4. S/Shri O. N. Agarwal,
R. C. Karmokar and Abdul Hakim,
Metric Weights & Measures Manufacturers Association, Kanpur.
5. Shri S. N. Kaushal,
National Chamber of Industries and Commerce, Agra.

B—Representatives of Manufacturers, Repairs and Dealers.

1. Shri Jairaj,
Acme Industries, Jullunder.
2. Shri K. S. Lakshminarayan,
Avery (India) Ltd., Calcutta.
3. Shri P. Lal, Avon Scales Co.,
Sonapat.
4. Shri Swaraj Pal,
Eleka Industries, Jullunder.
5. Shri S. N. Chattopadhyay,
George Salter (India) Ltd., Calcutta.
6. S/Shri H. M. Puri and V. M. Pednekar,
Libra Industries, Bombay.
7. Shri V. M. Pednekar,
Saple's Scale Manufacturing Co. Ltd.,
Bombay.



TENTH MEETING—RANCHI (21—24 FEBRUARY, 1972)

MINUTES OF THE TENTH MEETING OF THE WEIGHTS AND MEASURES (LAW REVISION) COMMITTEE

The tenth meeting of the Maitra Committee on revision of Laws on Weights and Measures was held at Ranchi from 21st February to 24th February, 1972. The names of the officials who attended the meeting are given in Annexure I.

Shri S. N. Sharma, Secretary, Department of Agriculture, Government of Bihar, welcomed the members to Ranchi and said that standardisation of weights and measures was important for the national economy and had to advance with the progress of science and technology. The field of legal metrology had its impact in practical life. In India, weights and measures have unified the country and no regional considerations intervened. The duties imposed by legal metrology were onerous, and it was necessary to establish, a metrological way of life by employing well-versed staff, which had to be trained continuously in the various disciplines which are covered by the term "legal metrology"

He particularly welcomed the decision of the Government of India to set up the Indian Institute of Legal Metrology at Ranchi on modern lines in technical co-operation with the Federal Republic of Germany. He assured all possible help to it from the Government of Bihar.

He hoped that the Committee which had been set up to revise the laws on weights and measures, enacted a decade and a half ago, would so frame their recommendations that the Departments of Weights and Measures could play their legitimate role in all such spheres as to be of real help to the consumers, traders and in the fields of industry, education, etc.

Dr. Kuppuswamy, Principal, Veterinary College, Ranchi (in the premises of which the meeting was held) wished the Committee success in its deliberations and hoped that it would be possible to have the recommendations implemented in the near future. He was glad to know that legal metrology was now proposed to be extended to all the fields of human endeavour. The Chairman said that this was the first time the Committee was meeting in Bihar and he thanked the Government of Bihar for the excellent arrangements made for the stay of the members and for the meeting. He then briefly outlined the reasons which necessitated the revision of the laws on weights and measures. He explained that the draft Report of the Committee and the draft Bills had already been discussed thoroughly in nine meetings and embodied the collective wisdom and unanimous views of the members. It was, therefore, proposed to adopt the draft Report and the Draft Bills in the meeting so that they could be forwarded to the Government of India for further critical examination and necessary action. He invited the members to give their views frankly on all matters and seek clarifications on any point arising out of the draft Report or the draft Bills.

The Chairman further added that after adoption of the Report and the Bill, the Committee would devote its energies to the framing of rules, which were essential for the administration of the laws. For this purpose, he suggested that it would be desirable to entrust certain members of the Committee with the preparation of a number of draft rules on specific subjects which could then be considered by the Committee. This procedure would facilitate the task and the work accomplished in shorter time.

He was glad that the proposed Institute would be built in Ranchi and that an excellent site had been selected for it. The temporary accommodation offered at the Veterinary College was also, he said, well-suited to the rapid expansion of the Institute.

The Chairman informed the Committee about the impending retirement of Shri Prem Prakash, one of the members of the Committee, and felicitated him on his own behalf and on behalf of the members of the Committee for the excellent contribution he had made on technical matters during the deliberations of the Committee.

Shri Prem Prakash thanked his colleagues for their good wishes and expressed happiness that the main task which had been entrusted to the Committee would be achieved with the adoption of the Report in this meeting. He explained how the NPL had helped in the manufacture of high quality balances which were otherwise being imported. He also cited other examples of work carried out by the National Physical Laboratory in various fields of legal metrology. He said that he would be glad to place his services at the disposal of the Committee in fulfilling the remaining tasks.

The Chairman informed the Committee that negotiations were being conducted with the Council of Scientific & Industrial Research so that a special Standards Group may be set up in the NPL which may discharge the legal responsibilities envisaged for it under the proposed Central Bill. It was hoped that, in the course of time, the Standards Group would blossom out as a separate laboratory to be known as "National Metrological Laboratory".

He informed the Committee about the letters of appreciation received from the President of OIML, Mr. van Male, the German experts from PTB and from Weights and Measures Authorities of many foreign countries.

Shri Mainker said that in theory, every type of measurement would come under the purview of legal metrology. He added that the OIML had already set up about 70 Committees to standardise different equipments in use in various fields including radar technology. It was the duty of members of OIML to implement these recommendations, and the new law would enable this to be done systematically.

Before taking up clause-by-clause consideration of the draft Bill, the Chairman clarified that the legal position regarding inter-State trade or commerce in weights and measures had already been considered and the constitutional validity had been confirmed by the Secretary to Government of India in the Ministry of Law and Justice. He added that theoretically legal metrology covers a wide field but it was proposed to expand the legal control gradually.

The Committee then took up the Draft Report for discussion. Certain editorial corrections and additions were adopted for incorporation in the text of the Report.

The draft Central Bill was then discussed. The following recommendations were made:

Definitions.—It was agreed that the definitions of "dealer" would be examined by the Chairman with a view to clarifying certain points. The definition of "false weight or measure" would be examined so as to separate false packages from false weights and measures.

Units.—A new base unit, called the "mole", had been adopted by the CGPM in October, 1971. This unit should be incorporated in the Central Bill as the seventh base unit.

Clauses 27 and 28.—Certain powers of the Director may be delegated to the State officials subject to such conditions and restrictions as the Central Government might impose. A change to this effect would be introduced in the clause.

Clause 30.—The words "is intended" should be replaced by the words "is or is intended" so as to clarify the intention of the clause and co-ordinate it with similar clause in the State Bill.

Clause 35.—In the case of revocation of approval of models, it should be provided by rules that a copy of the revocation notice should be sent to all the States.

Clause 38.—It was agreed that the Chairman should examine whether clause 38(1)(c) (iii) should be amended to read as:

"(iii) the accurate number of the commodity contained in such package, when it is sold or packed by number."

Clause 41.—It was agreed that weights and measures stamped with the Central seal should be considered valid in the transferor State as well.

Clause 46.—The clause should be re-drafted so as to ensure that a copy of the registration of an importer or exporter should also be sent to the States.

The Chairman then took up discussion of the State Bill. All the members agreed that there was no need to make any changes in it.

The Committee then authorised the Chairman to make such verbal or editorial changes in the Report and in the Bills as may be considered by him to be necessary, and to submit the Report and the Bills, as so revised, to the Government of India for early necessary action.

The Committee took up discussion on the preparation of rules. It was agreed that the rules should be framed to cover various items in the manner indicated in Annexure II and preliminary drafts should be prepared by the members shown against each item and sent to the Chairman before end of the month of May, 1972, for scrutiny.

The Committee decided that the next meeting should be held in July-August, 1972 to consider the rules.

The meeting concluded with a vote of thanks to the Chair.

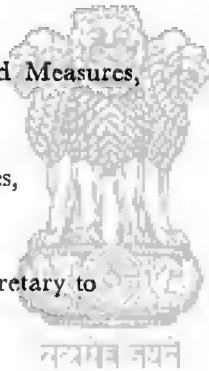


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ANNEXURE I

OFFICIALS WHO ATTENDED TENTH MEETING OF MAITRA
COMMITTEE AT RANCHI FROM 21 TO 24 FEBRUARY, 1972

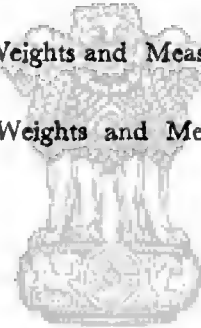
1. Shri S. K. Maitra,
Joint Secretary,
Ministry of Law and Justice—Chairman.
2. Shri V. B. Mainkar,
Director, Weights and Measures,
Ministry of Industrial Development—Member Secretary.
3. Shri Prem Prakash,
Scientist,
National Physical Laboratory,
New Delhi.
4. Capt. C. V. Rao,
Deputy Master of the Mint,
India Government Mint,
Bombay.
5. Shri B. K. Pentiah,
Controller, Weights and Measures,
Andhra Pradesh.
6. Shri P. Rajagopal,
Deputy Controller of Weights and Measures,
Kerala.
7. Shri Shafiq Husain,
Controller, Weights and Measures,
Uttar Pradesh.
8. Shri S. B. Kulkarni,
Industries Commissioner and Secretary to
Government of Maharashtra.
9. Shri C. P. Shastri,
Controller, Weights and Measures,
Bihar.



Invitees :

10. Shri S. N. Sharma,
Secretary,
Department of Agriculture and Animal Husbandry,
Government of Bihar.
11. Dr. P. B. Kuppuswamy,
Principal, Veterinary College,
Rajendra Agricultural University, Ranchi.
12. Shri B. P. Singh,
Joint Director of Agriculture, Ranchi.
13. Shri R. Shyam,
Deputy Controller, Weights and Measures,
Ranchi.
14. Shri C. D. Banerjee,
Assistant Director of Agri. (Farms).

15. Shri Akhauri Prem Prakash,
Section Officer, Agricultural Department, Patna.
16. Shri A. K. Ghose,
Deputy. Chief Inspector, Weights and Measures, Bihar,
Patna.
17. Shri S. N. Singh, Principal,
All India Training Institute of Weights and Measures,
Patna.
18. Shri M. L. Madan,
Assistant Director, W and M, Bombay.
19. Shri Ishwar Datt,
Assistant Director, W and M, Delhi.
20. Shri V. K. K. Nair,
Assistant Director, W and M, Madras.
21. Shri P. S. Pamar,
Assistant Director, W and M, Calcutta.
22. Shri K. D. Tewari,
Administrative Officer, Weights and Measures, Bihar.
23. Shri H. Mishra, Lecturer,
All India Training Institute of Weights and Measures, Patna.
24. Shri H. Haque, Instructor,
All India Training Institute of Weights and Measures, Patna.



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ANNEXURE II

MAITRA COMMITTEE MEETING—RANCHI, 21—24 FEBRUARY, 1972

Rules under Central Bill

It is proposed to compile the following rules separately under the proposed Standards of Weights and Measures Bill, 1972. The relevant rule-making powers are indicated against each set of rules:—

(1) *Weights and Measures (National Standards) Rules.*—Items (a), (b), (d), (e), (f) (to be drafted by NPL).

(2) *Weights and Measures (Numerals) Rules.*—Item (c) (to be drafted by DWM).

(3) *Standards of Weights and Measures (General) Rules.*—Items (g), (h), (i), (j), (k), (l), (m), (y), (z), (zc) (to be drafted by DWM).

(4) *Weights and Measures (Approval of Models) Rules.*—Items (n), (o), (p), (q) (to be drafted by NPL).

(5) *Weights and Measures (Packaged Commodities) Rules.*—Items (r), (s), (t), (u) (to be drafted by DWM).

(6) *Weights and Measures (Weights and Measures) Rules.*—Items (v), (w), (x), (y), (z) (to be drafted by DWM).

(7) *The Indian Weights and Measures Act, 1947.*—(to be drafted by DWM).

(8) *The Indian Weights and Measures Regulations.*—(to be drafted by DWM).

Rules under State Model Bill

(1) *Weights and Measures (State Standards) Rules.*—Items (a), (b), (c) (to be drafted by Maharashtra).

(2) *Weights and Measures (Licensing of Manufacturers, etc.) Rules.*—Items (d), (e), (f), (g), (i) (to be drafted by AP).

(3) *Weights and Measures (General) Rules.*—Items (h), (j), (k), (l), (m), (n), (o), (p), (q) (to be drafted by Shri Mehendru).